

ORDINANCE NO. 3753-C.S.

ORDINANCE ADDING SECTION 2-3.908, “COMMUNITY POLICE REVIEW BOARD,” TO CHAPTER 3, “ADMINISTRATIVE DEPARTMENTS,” OF TITLE 2, “ADMINISTRATION,” OF THE MODESTO MUNICIPAL CODE TO ESTABLISH THE CITY OF MODESTO COMMUNITY POLICE REVIEW BOARD (CPRB)

WHEREAS, the City of Modesto is seeking to establish a Community Police Review Board (CPRB) in conjunction with contracting the services of an Independent Police Auditor (IPA); and

WHEREAS, the establishment of a Community Police Review Board as a dual component of a hybrid police accountability model, is the culmination of the efforts of the Forward Together work group created on June 8, 2021 by Council Resolution No. 2021-216; and

WHEREAS, for over a year, the work group held a series of public workshops and ad hoc meetings focused on the issue of improving police-community relations in the City of Modesto; and

WHEREAS, based on the Forward Together work group’s recommendations, staff identified the IPA and CPRB as foundational accountability components and the appropriate initial elements to implement; and

WHEREAS, in general, the role of the CPRB will follow best practices as modeled after the National Association of Civilian Oversight Boards for Law Enforcement (NACOLE) and as suited for the needs of the City of Modesto to carry out improved community relations with the Modesto Police Department; and

WHEREAS, the CPRB shall be comprised of nine (9) members who reside within the city limits.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1 AMENDMENT

Section 2-3.908 “Community Police Review Board,” is hereby added to Chapter 3, “Administrative Departments,” of Title 2, “Administration,” of the Modesto Municipal Code to read as follows:

2-3.908 - Community Police Review Board.

(a) Establishment of Board. There is hereby established the Modesto Community Police Review Board.

(b) Membership. The Board shall consist of nine (9) members appointed by the City Council. The City Council shall determine the qualifications of members and the procedure for selection of members by resolution.

(c) Duties. The duties of the Community Police Review Board shall be established by the City Council by resolution.

SECTION 2. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The proposed Ordinance is exempt from CEQA under the general rule in CEQA

Guidelines section 15061(b)(3), that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

SECTION 4. EFFECTIVE DATE

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this Ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its introduction and passage to print which motion being duly seconded by Councilmember Williams , was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

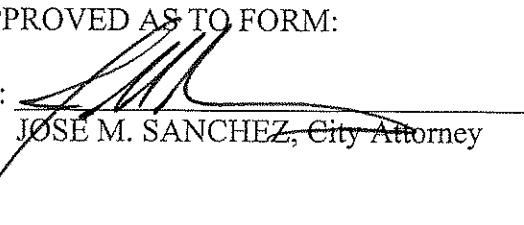
NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:
By: 
DIANE NAYARÉS-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 10th day of January, 2023, Councilmember Williams moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: February 9, 2023

5247586.1

ORDINANCE NO. 3754-C.S.

AN ORDINANCE AMENDING ARTICLES 1, 2, AND 16 OF CHAPTER 1 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO BUILDING REGULATIONS TO ADOPT BY REFERENCE CALIFORNIA CODE OF REGULATIONS, TITLE 24 PART 2, VOLUMES 1 & 2

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the Commission), or at a later date established by the Commission; and

WHEREAS, Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Building Standards Code to make such changes in such provisions as the city determines, pursuant to Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Health and Safety Code Section 17958.7 requires that a city, before making changes pursuant to Health and Safety Code Section 17958.5, must make an express finding that such changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings, and the changes, have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of the Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and that such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof; and

NOW, THEREFORE, the City Council of the City of Modesto does hereby ordain as follows:

SECTION 1. Articles 1, 2 and 16 of Chapter 1 “Building Code,” of Title 9 “Building Regulations” of the Modesto Municipal Code is hereby amended to read as follows:

Article 1. - Adoption by Reference of the 2022 California Building Code

9-1.101 - Adoption by Reference of the 2022 California Building Code.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2022 California Building Code, California Code of Regulations, Title 24, Part 2, Volumes 1 and 2, as published by the International Code Council, as now existing, or hereafter amended, regulating and governing the conditions of all properties, buildings, and structures; by providing the standards for facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupancy and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2022 California Building Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions and changes, if any, prescribed in this Chapter, be and hereby is adopted as the Building Code of the City of Modesto.

9-1.101.2 - Adoption by Reference of the 2022 California Residential Code.

That certain document, one (1) copy of which is on file in the office of the City Clerk at the City of Modesto, being marked and designated as the California Residential Code, 2022 edition, California Code of Regulations Title 24, Part 2.5 as published by the International Code Council, regulating and governing the conditions of residential detached one- and two-family dwellings by providing the standards for facilities and other physical things and conditions essential to ensure that these structures are safe, sanitary and fit for occupation and use; and the demolition of such structures as herein provided, providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof, and each and all of the regulations;

provisions, penalties, conditions and terms of said building code on file in the office of the City Clerk of the City of Modesto are hereby referred to, adopted and made part hereof, as if fully set out in this ordinance with the additions, deletions and changes, if any prescribed in this chapter, be and hereby are adopted by reference as the Building Code of the City of Modesto.

9-1.101.3 - Adoption by Reference of the 2022 California Green Building Standards Code.

That certain document, one (1) copy of which is on file in the office of the City Clerk at the City of Modesto, being marked and designated as the California Green Building Standards Code, 2022 edition, California Code of Regulations Title 24, Part 11 as published by the International Code Council, regulating and governing the conditions for energy efficiency, water efficiency and conservation, material conservation and resource efficiency for residential and nonresidential buildings hereby referred to, adopted and made part hereof, as if fully set out in this ordinance with the additions, deletions and changes, if any prescribed in this chapter, be and hereby is adopted by reference as the Green Building Code of the City of Modesto.

Article 2. - General Code Provisions

9-1.201 - Title.

These regulations shall be known as the "Building Code of the City of Modesto," and may be cited and referred to herein as such or may be cited and referred to herein as the "Building Code," the "2022 California Building and 2022 California Residential Code," the "California Building and Residential Code," the "Green Building Code", or "this Code."

9-1.202 - Purpose.

The purpose of this code is to establish the minimum requirements to provide a reasonable level of safety, public health and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire, explosion and other hazards, and to provide a reasonable level of safety to fire fighters and emergency responders during emergency operations.

9-1.203 - Scope.

The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout the City of Modesto.

9-1.204 - Appendices.

Provisions contained in the appendices of the California Building Code and the California Residential Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

Article 16. - Technical Amendments to the 2022 California Building Code

9-1.1601 - Deleted Sections.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

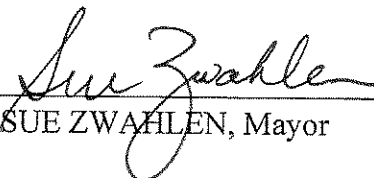
SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 5. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence,

clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2023, by Councilmember Williams who moved its introduction and passage to print, which motion being duly seconded by Councilmember Wright, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:


By: DIANE NAYARES-PEREZ, City Clerk

(Seal)

APPROVED AS TO FORM:


By: JOSE M SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2023, Councilmember Williams moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: February 23, 2023

ORDINANCE NO. 3755-C.S.

AN ORDINANCE AMENDING CHAPTER 3, “ELECTRICAL CODE” OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO BUILDING REGULATIONS TO ADOPT BY REFERENCE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 3 “ELECTRICAL CODE”

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the Commission), or at a later date established by the Commission; and

WHEREAS, Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Building Standards Code to make such changes in such provisions as the city determines, pursuant to Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Health and Safety Code Section 17958.7 requires that a city, before making changes pursuant to Health and Safety Code Section 17958.5, must make an express finding that such changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings, and the changes, have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of the Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and that such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof.

NOW, THEREFORE, the City Council of the City of Modesto does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 3 entitled “Electrical Code” of

Title 9 “Building Regulations” shall be amended as follows:

9-3.101 - Adoption by Reference of the 2022 California Electrical Code.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2022 California Electrical Code, California Code of Regulations Title 24, Part 3, as published by the Building News, inc. (BNi), as now existing, or hereafter amended, regulating, governing and providing standards for the erection, installation, repair, relocation, replacement, addition to, use, or maintenance of electrical systems and parts thereof for the protection of public health and safety, providing for the issuance of permits and collection of fees, providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2022 California Electrical Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions, and changes if any, prescribed in this Chapter, be and hereby is adopted as the Electrical Code of the City of Modesto.

Article 2. - General Code Provisions

9-3.201 - Title.

These regulations shall be known as the "Electrical Code of the City of Modesto," and may be cited and referred to herein as such or may be cited and referred to herein as the "Electrical Code," the "2022 California Electrical Code," the "California Electrical Code," or "this Code."

9-3.204 - Appendices.

Provisions contained in the appendices of the California Electrical Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 5. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2023, by Councilmember Williams who moved its introduction and passage to print, which motion being duly seconded by Councilmember Wright, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:


By: _____
DIANE NAYARÉS-PÉREZ, City Clerk

(Seal)

APPROVED AS TO FORM:


By: _____
JOSE M SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2023, Councilmember Ricci moved its final adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Mayor Zwahlen

NOES: Councilmembers: Wright

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST: 
By: _____
DIANE NAYARES-PEREZ, City Clerk

Effective Date: February 23, 2023

ORDINANCE NO.3756-C.S.

AN ORDINANCE ADOPTING BY REFERENCE THE EXISTING BUILDING CODE CONTAINED WITHIN THE 2022 CALIFORNIA BUILDING STANDARDS CODE AND AMENDING ARTICLES 1 AND 2 OF CHAPTER 11 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the Commission), or at a later date established by the Commission; and

WHEREAS, Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Building Standards Code to make such changes in such provisions as the city determines, pursuant to Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Health and Safety Code Section 17958.7 requires that a city, before making changes pursuant to Health and Safety Code Section 17958.5, must make an express finding that such changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings, and the changes, have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of the Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and that such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof; and

NOW, THEREFORE, the City Council of the City of Modesto does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 11 entitled “Existing Building Code” shall be amended as follows:

Chapter 11 – EXISTING BUILDING CODE

Article 1. - Adoption by Reference of the 2022 California Existing Building Code

11-1.101 - Adoption by Reference of the 2022 California Existing Building Code.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2022 California Existing Building Code, California Code of Regulations, Title 24, Part 10, as published by the International Code Council, as now existing, or hereafter amended, regulating and governing the conditions of existing building and structures; providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2022 California Existing Building Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions and changes, if any, prescribed in this Chapter, be and hereby is adopted as the Building Code of the City of Modesto.

Article 2. - General Code Provisions

11-1.201 - Title.

These regulations shall be known as the "Existing Building Code of the City of Modesto," and may be cited and referred to herein as such or may be cited and referred to herein as "this Code."

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 5. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2023, by Councilmember Williams, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Wright, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing Ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January, 2023, Mayor Zwahlen moved its final adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the Ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Mayor Zwahlen

NOES: Councilmembers: Wright

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: February 23, 2023

ORDINANCE NO. 3757-C.S.

AN ORDINANCE AMENDING CHAPTER 7, “MECHANICAL CODE” OF TITLE 9 OF THE MODESTO MUNICIPAL CODE RELATING TO BUILDING REGULATIONS TO ADOPT BY REFERENCE CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 4 “MECHANICAL CODE”

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the Commission), or at a later date established by the Commission; and

WHEREAS, Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Building Standards Code to make such changes in such provisions as the city determines, pursuant to Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Health and Safety Code Section 17958.7 requires that a city, before making changes pursuant to Health and Safety Code Section 17958.5, must make an express finding that such changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings, and the changes, have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of the ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and that such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof.

NOW, THEREFORE, the City Council of the City of Modesto does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 7 entitled “Mechanical Code” of Title 9 “Building Regulations” shall be amended as follows:

Article 1. - Adoption by Reference of the 2022 California Mechanical Code

9-7.101 - Adoption by Reference of the 2022 California Mechanical Code.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2022 California Mechanical Code, California Code of Regulations, Title 24, Part 4, as published by the International Association of Plumbing and Mechanical Officials (IAPMO), as now existing, or hereafter amended, which said Code governs and provides proper regulations of mechanical systems and parts thereof, including, but not limited to, addition to or erection, installation, alteration, repair, relocation, replacement, use, or maintenance of any heating, ventilation, cooling, refrigeration systems or equipment thereof; incinerators or parts or equipment thereof; or other miscellaneous heat producing appliances, parts or equipment thereof; providing for the issuance of permits and collection of fees therefor; providing for the inspection thereof; providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2022 California Mechanical Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions, and changes, if any, prescribed in this Chapter, be and hereby is adopted as the Mechanical Code of the City of Modesto.

Article 2. - General Code Provisions

9-7.201 - Title.

These regulations shall be known as the "Mechanical Code of the City of Modesto", and may be cited and referred to herein as such or may be cited and referred to herein as the "Mechanical Code", the "2022 California Mechanical Code", the "California Mechanical Code", or "this Code."

9-7.204 - Appendices.

Provisions contained in the appendices of the California Mechanical Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 5. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2023 by Councilmember Williams, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Wright, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED:


SUE ZWAHLEN, Mayor

ATTEST:

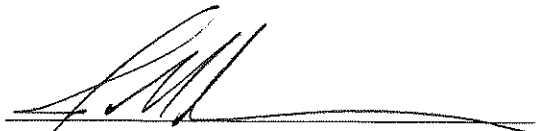
BY:


DIANE NAYARES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:


JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing Ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January 2023, Councilmember Ricci, moved its final adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the Ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Mayor Zwahlen


NOES: Councilmembers: Wright

ABSENT: Councilmembers: None

APPROVED:


SUE ZWAHLEN, MAYOR

ATTEST:


DIANE NAYARES-PEREZ, City Clerk

Effective Date: February 23, 2023

ORDINANCE NO. 3758-C.S.

AN ORDINANCE ADOPTING BY REFERENCE THE PLUMBING CODE CONTAINED WITHIN THE 2022 CALIFORNIA BUILDING STANDARDS CODE AND AMENDING ARTICLES 1 AND 2 OF CHAPTER 2 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the Commission), or at a later date established by the Commission; and

WHEREAS, Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Building Standards Code to make such changes in such provisions as the city determines, pursuant to Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Health and Safety Code Section 17958.7 requires that a city, before making changes pursuant to Health and Safety Code Section 17958.5, must make an express finding that such changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings, and the changes, have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of the Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and that such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof; and

NOW, THEREFORE, the City Council of the City of Modesto does hereby ordain as follows:

SECTION 1. REPEALING AND REPLACING. Section 9-2.101 of Article 1 of Chapter 2, “Plumbing Code,” of Title 9, “Building Regulations” and Sections 9-2.201 and 9-2.204 of Article 2 of Chapter 2, “Plumbing Code,” of Title 9, “Building Regulations” shall be repealed in their entirety and replaced as follows:

Article 1. - Adoption by Reference of the 2022 California Plumbing Code

9-2.101 - Adoption by Reference of the 2022 California Plumbing Code.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2022 California Plumbing Code, California Code of Regulations, Title 24, Part 5, as published by the International Association of Plumbing and Mechanical Officials (IAPMO), as now existing, or hereafter amended, regulating and governing the erection, alteration, installation, repair, relocation, replacement, addition to, use or maintenance of plumbing and drainage systems and parts thereof for the protection of public health and safety, providing for the issuance of permits and collection of fees, providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2022 California Plumbing Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions and changes, if any, prescribed in this Chapter, be and hereby is adopted as the Plumbing Code of the City of Modesto.

Article 2. - General Code Provisions

9-2.201 - Title.

These regulations shall be known as the "Plumbing Code of the City of Modesto," and may be cited and referred to herein as such or may be cited and referred to herein as the "Plumbing Code," the "2022 California Plumbing Code," the "California Plumbing Code," or "this Code."

9-2.204 - Appendices.

Provisions contained in the appendices of the California Plumbing Code shall not apply unless specifically adopted by the State of California or the City of Modesto.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines") under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 5. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

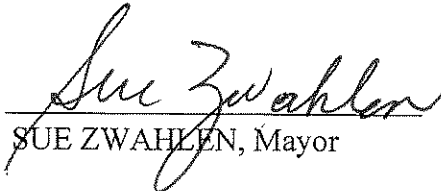
The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2023 by Councilmember Williams, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Wright, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams
Wright, Mayor Zwahlen

NOES: Councilmembers: None


ABSENT: Councilmembers: None

APPROVED:


SUE ZWAHLEN, Mayor

ATTEST:

BY:


DIANE NAYARES-PÉREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:


JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE


The foregoing Ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 24th day of January 2023, Councilmember Alvarez, moved its final adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the Ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Mayor Zwahlen


NOES: Councilmembers: Wright

ABSENT: Councilmembers: None

APPROVED:


SUE ZWAHLEN, MAYOR

ATTEST:


DIANE NAYARES-PEREZ, City Clerk

Effective Date: February 23, 2023

ORDINANCE NO. 3759-C.S.

**ORDINANCE AMENDING SECTION 3-2.1401.1 OF
ARTICLE 14 OF CHAPTER 2 OF TITLE 3 OF THE
MODESTO MUNICIPAL CODE RELATING TO
SPEED LIMITS**

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Section 3-2.1401.1, School
Zone Reduced Speed Limits of the Modesto Municipal Code is amended
to read as follows:

SCHOOL ZONE REDUCED SPEED LIMITS

BEAR CUB LANE, between Kodiak Dr and Hillglen Avenue	15 miles per hour
BOWEN AVENUE, between Fremont Avenue and College Avenue	15 miles per hour
BOWIE AVENUE, between School Ave and El Paso Ave	15 miles per hour
CALIFORNIA AVENUE, between Champagne Lane and S. Emerald Ave	15 miles per hour
CHEYENNE WAY, between Seminole Lane and Shawnee Drive	15 miles per hour
COLDWELL AVENUE, between Brady Avenue and Enslin Avenue	15 miles per hour
CONANT AVENUE, between Nancy Ln And W. Rumble Road	15 miles per hour
ELSIE STREET, between Hudson Lane And Sutter Avenue	15 miles per hour
S. EMERALD AVENUE, between California Avenue and Muriel Avenue	15 miles per hour
ENCINA AVENUE, between North Conejo Ave and Rosina Avenue	15 miles per hour

ESCUELITA AVENUE, between North Santa Ana Avenue and Las Palmas Avenue	15 miles per hour
FINE AVENUE, between Landing Way and Kodiak Drive	15 miles per hour
FINE AVENUE, between Merle Avenue And Sharon Avenue	15 miles per hour
FLOYD AVENUE, between Newport Drive and Vicki Drive	15 miles per hour
GLENN AVENUE, between Las Vegas Street and Rutherford Street	15 miles per hour
HAMMOND STREET, between Robertson Road and Red Pine Drive	15 miles per hour
JANNA AVENUE, between Easter Drive and Peach Drive	15 miles per hour
KIRSCHEN DRIVE, between Crippen Avenue and Pine Tree Lane	15 miles per hour
KODIAK DRIVE, between Litt Road And Fine Avenue	15 miles per hour
KODIAK DRIVE, between Tagura Drive and Bear Cub Lane	15 miles per hour
LAS VEGAS STREET, between Butte Avenue and Glenn Avenue	15 miles per hour
LUCERN AVENUE, between Coffee Road And El Terino Avenue	15 miles per hour
MAID MARIANE LANE, between Merle Avenue and Sharon Avenue	15 miles per hour
MERLE AVENUE, between Wisdom Way And Walnut Tree Drive	15 miles per hour
MIDDLEBORO PLACE, between Lakewood Ave and Eastridge Drive	15 miles per hour

MONTEREY AVENUE, between Kerr Avenue and Empire Avenue	15 miles per hour
MOUNT VERNON DRIVE, between Hemminger Way and Sharondell Drive	15 miles per hour
NORTHVIEW DRIVE, between Mable Avenue and Kentwood Avenue	15 miles per hour
POUST AVENUE, between Chapparad Place And Kidd Avenue	15 miles per hour
ROBERTSON ROAD, between Pine Tree Lane and Hammond Street	15 miles per hour
EAST RUMBLE ROAD, between Claremont Avenue and Hampshire Lane	15 miles per hour
W. RUMBLE ROAD, between Conant Avenue and Marvin Gardens	15 miles per hour
W. RUMBLE ROAD, between Park Place and Holiday Lane	15 miles per hour
SCHOOL AVENUE, between Crows Landing Road and Bowie Avenue	15 miles per hour
SHARON AVENUE, between Maid Mariane Lane and Fine Avenue	15 miles per hour
SHELDON DRIVE, between Janet Drive and Pembroke Drive	15 miles per hour
SONOMA AVENUE, between East Orangeburg Avenue and Meadow Rue Drive	15 miles per hour
SUNRISE AVENUE, between East Coolidge Ave and East Orangeburg Avenue	15 miles per hour
SUTTER AVENUE, between Elsie Street and South Avenue	15 miles per hour
TERESA STREET, between Seasons Way and Grape Avenue	15 miles per hour
TOKAY AVENUE, between Sunrise Avenue and La Cienega Drive	15 miles per hour

WARM SPRINGS DRIVE, between Eastport Dr and Eastern Avenue	15 miles per hour
WISDOM WAY, between Whole Court	15 miles per hour
WOODROW AVENUE, between Tully Road and Lord Avenue	15 miles per hour

*EXTEND SURVEY 5, 7, 10 years per State of California Department of Transportation, Traffic Operations Policy Directive 09-04.

SECTION 2. SEVERABILITY . If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures

shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February, 2023, by Councilmember Alvarez who moved its introduction and passage to print, which motion being duly seconded by Councilmember Williams, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

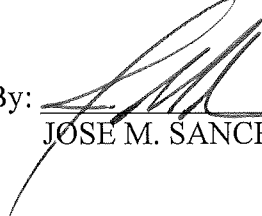
APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 28th day of February 2023, Councilmember Wright, moved its final adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the Ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: March 30, 2023

ORDINANCE NO. 3760 -C.S.

AN ORDINANCE REPEALING AND REPLACING CHAPTER 1 OF TITLE 3 OF THE MODESTO MUNICIPAL CODE AMENDING THE CITY'S FIRE CODE TO ADOPT THE 2022 CALIFORNIA FIRE CODE

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the Commission), or at a later date established by the Commission; and

WHEREAS, Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Building Standards Code to make such changes in such provisions as the city determines, pursuant to Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Health and Safety Code Section 17958.7 requires that a city, before making changes pursuant to Health and Safety Code Section 17958.5, make an express finding that such changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings and changes have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of the Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and that such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof.

NOW, THEREFORE, the City Council of the City of Modesto does hereby ordain as follows:

SECTION 1. REPEAL AND REPLACEMENT OF CODE. Chapter 1 of Title 3 of the Modesto Municipal Code is hereby repealed in its entirety and replaced with the following.

Chapter 1. - Adoption of the California Fire Code, 2022 Edition

ARTICLE 1. FIRE CODE

3-1.101 Findings for Adoption of the California Fire Code, 2022 Edition.

The City Council of the City of Modesto hereby finds and determines: That the International Code Council is a private organization which has been in existence for at least three (3) years. That the California Fire Code, 2022 Edition, published by said organization, is a nationally recognized compilation of proposed rules, regulations, and standards of said organization. That said California Fire Code, 2022 Edition has been printed and published as a code in book form within the meaning of Section 50022.2 et seq. of the Government Code. That one (1) copy of the California Fire Code, 2022 Edition, certified by the City Clerk of the City of Modesto to be a true copy, has been filed for use and examination by the public in the office of the City Clerk of the City of Modesto. Sections of the California Fire Code, 2022 Edition may be referred to by the number used in said published compilation, preceded by the words "California Fire Code Section" or "Fire Code Section", and may also be referred to by additional reference to the Modesto Municipal Code and sections therein pertaining to said California Fire Code, 2022 Edition.

The additional requirements and standards established herein are needed to properly protect the health, safety, and welfare of the existing and future residents and workers of the City of Modesto. Said requirements and standards are reasonably necessary because of local climatic, geological, and topographical conditions, and comply with existing state laws and regulations.

Amendment of the California Fire Code, 2022 Edition, is necessary so as to provide more stringent standards for fire extinguishing systems; fire hazard and hazardous materials controls are necessary to serve the public interest by reducing the risk to life and property of the citizens of Modesto because of the following climatic and topographical local conditions:

- (a) Summer weather conditions are very dry, hot and windy causing ordinary combustibles to be easily ignited and fires to be fast spreading;
- (b) Very dense fog conditions occur in winter. Reduced visibility causes delays in fire response;
- (c) Fire response is delayed by railroad tracks which:
 - (1) Divide the City from northeast between Tully Road and McHenry Avenue to the west side of Ninth Street;
 - (2) Run parallel to Highway 99 through the City, restricting response at locations where overpasses are not provided;
 - (3) Run parallel to Yosemite Boulevard restricting access to the airport, Tuolumne Regional Park, and adjacent areas; and
 - (4) Restrict access at intersections and streets in the areas of Ninth, Tenth, D, and E Streets.
- (d) Modesto Irrigation Canal #3 restricts access to the neighborhoods and developments to the north and east of Briggsmore Avenue from Oakdale Road to Claus Road;
- (e) Fire response is delayed by rivers and creeks which:
 - (1) Divide the southwest area of the City and City contract areas and restrict access to these areas; and
 - (2) Divide the City from east to southwest along Scenic Drive.

THEREFORE, for the above reasons taken individually and cumulatively and in accordance with the authority granted in Sections 17958.5 and 17958.7 of the California Health and Safety Code, the Council of the City of Modesto expressly finds there are local climatic and topographical conditions that make the increased fire protection requirements set forth in this chapter reasonably necessary.

3-1.102 Adoption by Reference of the California Fire Code, 2022 Edition.

- (a) That certain document, one (1) copy of which is on file in the office of the City Clerk of the City of Modesto, being marked and designated as the California Fire Code, 2022 Edition, California Code of Regulations Title 24, Part 9, including Appendix Chapter 4, and Appendix B, BB,C CC,D, F, G, I, K, , N, O and Division 1 California Administration and Division II Scope and Administration as published by the International Code Council, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said California Fire Code, 2022 Edition, on file in the office of the City Clerk of the City of Modesto is hereby referred to, adopted, and made a part in accordance with, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in this chapter and is hereby adopted as the Fire Code of the City of Modesto.

- (b) These regulations shall be known as the Fire Code of the City of Modesto and may be cited as such or may be cited as the "California Fire Code, 2022 Edition," the "2022 California Fire Code", "the Fire Code", or "this Code."

3-1.103 Repeal of Conflicting Ordinances.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or with the 2022 California Fire Code as adopted and amended are hereby repealed.

ARTICLE 2. AMENDMENTS, ADDITIONS AND DELETIONS TO THE 2022 CALIFORNIA FIRE CODE

3-1.201 Combustible Waste Material.

Section 304.1.2 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Vegetation. When the Fire Code Official determines that total removal of growth is impractical due to the size or environmental factors, approved fuel breaks shall be established. Designated areas shall be cleared of combustible vegetation to establish the fuel breaks.

Abatement of a public nuisance shall be in accordance with Article 6 of Chapter 6 of Title 1 of the Modesto Municipal Code. The Fire Department may impose a nuisance abatement lien pursuant to Section 1-6.702 of the Modesto Municipal Code.

The Fire Department may recover, from a property owner, those costs associated with the suppression costs incurred in fighting a fire and for providing rescue or emergency medical services should a fire occur on said property after the owner has been notified to abate such public nuisance and has failed to do so.

3-1.202 Vehicle Impact Protection.

Section 312.2 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Posts. Guard posts or other approved means shall be provided to protect storage tanks and connected piping, valves and fittings; dispensing areas; and use areas subject to vehicular damage. When guard posts are installed, the posts shall be:

1. Constructed of steel not less than six (6) inches in diameter and concrete filled,
2. Spaced not more than four (4) feet between posts on center,
3. Set not less than three (3) feet deep in a concrete footing of not less than a fifteen (15) inch diameter,
4. Set with the top of the posts not less than three (3) feet above ground, and
5. Located not less than five (5) feet from the tank.

3-1.203 Fire Protection and Water Supplies.

Section 507.1 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Required Water Supply.

- (a) An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, building or portions of buildings are hereafter constructed or moved into or within the jurisdiction. See Appendix-B of the 2022 California Fire Code.
- (b) Fire hydrants shall be located on the supply side of the fire suppression system check valve.
- (c) Fire hydrants shall be accessible to the Fire Department apparatus by roads meeting the requirements of Section 503.1 of the 2022 California Fire Code.

3-1.204 Where Required.

Section 507 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Where required. Where a portion of a facility or building hereafter constructed or moved into or within the jurisdiction is more than 200 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official.

3-1.205 Incinerators.

Section 605.8 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Incinerators. The use of incinerators is prohibited inside the City limits of Modesto.

EXCEPTION: Incinerators used by state licensed facilities for the cremation of human or pet remains.

3-1.206 Open burning, recreational fires, and portable outdoor fireplaces

Section 307.1 of the 2022 California Fire Code is hereby adopted by reference:

A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with sections 307.1.1 through 307.5

3-1.207 Automatic Sprinkler Systems.

Section 903 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

New Construction.

- (a) An approved automatic fire sprinkler system is required in all new buildings and structures constructed on or after the effective date of this ordinance, notwithstanding the use and occupancy thereof, when any fire area, as defined in the California Fire Code exceeds five thousand (5,000) square feet.
- (b) When automatic sprinkler systems are required by the Modesto Municipal Code or the 2022 California Fire Code for certain uses and/or occupancies, the requirements of Section 903.2 of the 2022 California Fire Code shall also apply.
- (c) An approved automatic residential fire sprinkler system shall be installed in all one and two-family dwellings and townhouses in accordance with NFPA 13D or Section R313.3 of the 2019 California Residential Code.

EXCEPTION:

- 1. U Occupancies and gas station canopies
- 2. Fire areas that are 5,000 square feet or less, unless the specific building occupancy classification requires sprinklers.

Existing Buildings and Structures.

An approved automatic fire sprinkler system shall be installed in all existing buildings and structures when either of the following conditions are met:

- (a) The value of additions, alterations or repairs that exceed fifty (50) percent of the current county assessed valuation for improvements only in the existing building or structure that exceeds five thousand (5,000) square feet.
- (b) Following any catastrophic event such as fire, flood, or natural disaster.

EXCEPTION:

- 1. U Occupancies and gas station canopies
- 2. Fire areas that are 5,000 square feet or less, unless the specific building occupancy classification requires sprinklers.

3-1.208 Monitoring.

Section 903.4.1 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to a UL LISTED supervising station as defined in NFPA 72 or, when approved by the Fire Code Official, shall sound an audible signal at a constantly attended location.

3-1.209 Portable Fire Extinguishers.

Section 906.9.1 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Extinguishers Weighing 40 Pounds or Less. Portable fire extinguishers having a gross weight not exceeding forty (40) lbs. (18 kg) shall be installed so that their tops are not more than four (4) feet above the floor.

Existing Installations. Portable fire extinguishers shall only be required to be lowered during tenant improvements.

3-1.210 Fire Alarm and Detection Systems.

Section 907. 2 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Where required - New Buildings and Structures. An approved fire alarm system installed in accordance with the provisions of this code and NFPF 72 shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23 of the California Fire (2022 Edition) and provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code.

- a. All fire alarm and detection systems shall require Central Station Services monitoring as defined by and in accordance with the 2016 Edition of NFPA 72, Chapter 26. A (UL) Underwriters Laboratories Certificate of (FM) Factory Mutual Placard, in accordance with the 2016 Edition of NFPA 72, Chapter 26, shall be issued by the UL listed or FM approved prime contractor for all newly installed fire alarm systems that are newly installed in commercial occupancies for which permits are required by the Modesto Fire Department, Division of Fire Prevention, on or after 1/1/2020.
- b. Any existing fire alarm system in a commercial occupancy wherein the fire alarm control panel and alarm system components require replacement, shall be considered newly installed for the purposes of this section and shall require Central Station Service in accordance with the 2016 Edition of NFPA 72 Chapter 26.
- c. Central Station Service in full compliance with the 2016 Edition of NFPA Chapter 26, shall be maintained at the protected property, so long as the requirement for the fire alarm system exist.

Exception. Supervisory service is not required for:

- i) Automatic sprinkler systems in one and two-family dwellings.

3-1.211. False Fire Alarms.

Section 907 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

False Fire Alarms. False fire alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted. The City Council may adopt by resolution reasonable fees to recover the costs associated with responses to buildings or structures that have excessive false fire alarms.

3-1.212 Hazardous Materials Occupancies.

Section 5001 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Key Box. When required by the Fire Code Official, an approved key box, sized to contain emergency information, (HMMP, HMIS and Safety Data Sheets) shall be provided.

3-1.213 Deposits of Hazardous Materials; Cleanup, Abatement, or Mitigation Required; Liability for Costs.

Section 5003.3.1.4 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Responsibility for Cleanup. The person, firm or corporation responsible for an unauthorized discharge shall initiate and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, at no cost to the jurisdiction. When deemed necessary by the Fire Code Official, cleanup may be initiated by the Fire Department or by an authorized individual or firm. Costs associated with such cleanup shall be borne by the owner, operator or other person responsible for the unauthorized discharge. The remedy provided by this section shall be in addition to any other remedies provided by law.

For purposes of this section, costs incurred by the City shall include, but shall not necessarily be limited to, the following: actual labor costs of City personnel, including worker's compensation benefits, administrative overhead; cost of equipment operation; cost of materials obtained directly by the City; and cost of any contract labor and materials. The authority to recover costs under this section shall not include actual fire suppression services that are normally or usually provided by the Fire Department.

3-1.214 Stationary Containers.

Section 5504.3.1.1.3 of the 2022 California Fire Code is adopted by reference, in addition to the following:

Location. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law. All R-1, R-2 and R-3 zoning designations as identified in Title 10 of the Modesto Municipal Code.

3-1.215 Possession, Manufacture, Sale, Use or Discharge of Dangerous Fireworks.

Section 5604 of the 2022 California Fire Code is hereby adopted by reference in addition to the following:

Dangerous Fireworks (a) For purposes of this section, dangerous fireworks are those fireworks specified as such in the State Fireworks Law, Section 12505 of the California Health and Safety Code, and such other fireworks as may be determined to be dangerous by the State Fire Marshal.

- (b) It shall be unlawful for any person to possess, manufacture, sell, use or discharge dangerous fireworks, or a dangerous firework kit, unless a permit authorizing such possession, sale, manufacture, use or discharge has been issued by the Fire Code Official to the person or responsible party, as is defined in Section 3-1.304 of the Modesto Municipal Code, using, selling, manufacturing, discharging or found in possession of said fireworks or kits, and unless such person is in possession of a valid pyrotechnic operator's license issued by the Office of the State Fire Marshal. The Fire Code Official may establish reasonable rules and regulations for governing issuance of a firework permit and may issue the same subject to payment of a fee as established by the City Council from time to time.
- (c) The Fire Code Official, or designee, shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of dangerous fireworks offered or exposed for sale, stored, or held in violation of this chapter.

3-1.216 Explosive Materials Prohibited and Limited Acts.

Section 5605.1 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Manufacturing. Explosive materials shall not be manufactured within the city limits of Modesto.

Limits Established by Law. The storage of explosives and blasting agents is restricted to those areas of the City zoned as Heavy Industrial Zone (M-2).

3-1.217 Manufacturing of Fireworks.

Section 5605 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Manufacturing. The manufacturing of fireworks is prohibited within the city limits of Modesto.

3-1.218 Sales of Fireworks.

Section 5608 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Sales. It shall be unlawful to engage in the sale of "Safe and Sane" fireworks in the City of Modesto without first having secured a permit to do so.

- (1) Effective 2005, the total number of sales permits issued in any given year shall be limited to seventy (70).
- (2) Sales permits for the sale of "Safe and Sane" fireworks in the City of Modesto shall be issued only to local nonprofit organizations and existing local for-profit organizations as defined herein.
 - (A) A "nonprofit organization" shall mean any nonprofit association, club, or corporation organized for veteran, patriotic, welfare, religious, civic betterment,

youth or charitable purposes, as defined by Section 501(c) of the Internal Revenue Code of the United States, or affiliated with a public school located within the city limits of Modesto. Each new organization shall provide the City with a copy of their "Letters of Incorporation" as proof of their nonprofit status. Existing organizations shall submit verification of current corporation status from the State of California Secretary of State's Office. Those organizations that are an integral part of a recognized national organization having tax exempt status must provide IRS written verification of such status. All applications will be subject to additional verification with the State of California and IRS if nonprofit status comes into question.

- (B) Public school organizations shall provide current written verification of affiliation from the school each year.
 - (C) A "local nonprofit organization" must have its principal and permanent meeting place in the City of Modesto or within the City of Modesto sphere of influence. The organization must have obtained nonprofit status and have been organized and established in the City of Modesto for a minimum of one (1) continuous year preceding the filing of the application for permit. The organization must also have a bona fide membership. Applications shall be signed by two (2) bona fide officers of the eligible organization, wherein the officer, on behalf of the organization and its agents, agrees to abide by State laws, administrative regulations, and all stipulations of this Code and the permit if permission to operate a fireworks stand is granted to the organization.
 - (D) An "existing local for-profit organization" must have a permitted fixed business location in the City of Modesto, have been issued a fireworks sales permit the previous year, have remained under the same management and/or ownership continuously since 1999, and have paid all business license and mill tax fees due the City of Modesto by the close of the application period. In the event mill taxes and business license fees are not current the organization's application will be denied.
 - (E) If any of the above items fail to be met at the time of application, the organization's application shall be denied.
- (3) Sales permits for retail sales of "Safe and Sane" fireworks in the City of Modesto issued pursuant to provision of this Code are not transferable by the holder of the permit. The sales permits may be used only by the organization to which they are issued. Violations will result in the immediate loss of the organization's sales permit.
 - (4) All applications for sales permits shall be in writing to the Fire Code Official on forms supplied by the City. Applications may only be filed during normal business hours from April 1st of each year up to and including April 30th of the same year, at which time the filing period for that year will close. A separate sales permit shall be required for each proposed location of a fireworks stand.

Each organization may file an application for one (1) sales permit for which there is only one tax ID number.

- (5) Applications shall set forth the proposed location of the fireworks stand including the nine (9) digit parcel number (APN) of the Stanislaus County Assessor, a site map, and other information as may be required by the Fire Code Official.
- (6) Applicants for sales permits shall be notified by June 15th of each year by the Fire Code Official of approval or disapproval of such application. Sales permits will be issued after final inspection of the stand reveals compliance with all state and local regulations. Organizations shall not open for sales prior to the final inspection of their stand. If an organization's stand fails to pass inspection there will be a re-inspection fee charged for the third (3rd) inspection, and each inspection thereafter until final inspection is approved, as established by Resolution No. 03-446.
- (7) Every application shall be accompanied by proof of insurance as specified in Section 3-1.22(3). Other items required at the time of application will be the organization's verification of eligibility as stated in 2(A) above, list of bona fide members, and current written permission signed by the property owner of record (with respect to lessee permission, approval shall be in the sole discretion of the Fire Code Official to sell fireworks at that location. Organizations representing public schools, as stated in 2(B) above, require written verification from the school of their affiliation.
- (8) Every application shall be accompanied by a nonrefundable application fee as established by resolution of the City Council from time to time. This application fee shall be in addition to any fees or taxes imposed by Title 6 of the Modesto Municipal Code.
- (9) Any local nonprofit organization as defined herein may make application for a sale permit but pre-approved (continuously permitted since 1999) organizations will have first option for a permit.
 - (A) When additional sales permits are authorized and all current pre-approved organizations have applied for such permits, a lottery will be held to fill any vacancies.
 - (B) This lottery will be held fourteen (14) days after the last day of the filing period specified in paragraph 4 and will include the names of all new local nonprofit organizations that have filed a complete application within the said filing period. If the fourteenth (14th) day falls on a weekend the lottery will be held on the next business day.
 - (C) One organization will be drawn for each available vacancy. If the organization whose name is drawn declines the permit, another name will be drawn until each vacancy is filled.
 - (D) Any organization having an approved application that fails to open their stand for that sales year will automatically forfeit their permit and a new organization will be chosen the following year provided a permit is available.
- (10) A nonprofit organization may apply for a sales permit with regard to a stand located in an area annexed by the City of Modesto under the following conditions:

- (A) Two (2) consecutive years prior to annexation, the applicant was issued a sales permit, by the City or County in which the property was formerly located, and applicant presents proof of the issuance of said permits;
- (B) The applicant has received a valid City of Modesto business license; and
- (C) The organization must either:
 - (1) Meet the criteria of set forth in Section 33-1.223(2) (A) or
 - (2) Present documentary evidence establishing its primary meeting for a minimum of two (2) years preceding application to City of Modesto was at the location for which the sales permit is currently sought.
- (D) Annexed property that was previously used for a temporary booth by an organization whose current primary meeting place is outside the city limits of Modesto is not eligible to make application for a sales permit.

Permits issued to these organizations will be issued without the necessity of being selected by lottery, even though such issuance may increase the number of permits to more than allowed herein. The addition of these organizations does not change the original intent to issue a total of seventy (70) sales permits per year.

3-1.219 Sales, Storage, Use, and Handling of Fireworks.

Section 5608 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

General. Sales, storage, use, and handling of fireworks shall be in accordance with this chapter.

- 1. Sales. Retail sale or display with the intent to sell fireworks is limited to State of California Fire Marshal approved and labeled "Safe and Sane" fireworks within the City of Modesto, by State of California licensed retailers, provided a permit to sell those fireworks has been approved and obtained from the Fire Code Official. Fireworks may be sold or offered for sale from 12:00 noon to 10:00 p.m. on June 28, 9:00 a.m. to 10:00 p.m. on June 29 through July 5, and 9:00 a.m. to 12:00 noon on July 6.

The storage of fireworks within the City of Modesto is limited to State of California Fire Marshal-approved and labeled "Safe and Sane" fireworks by State of California licensed wholesalers and retailers.

- (A) Wholesale Storage. Wholesalers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 1 through July 31 of each year. Storage facilities shall comply with H3 occupancy classification requirements as defined by the 2022 California Building Code.
- (B) Retailers Storage. Retailers may store "Safe and Sane" fireworks within the City of Modesto solely during the period of June 22 through July 15 of each year. "Safe and Sane" fireworks that are not being sold or displayed with the intent to sell, shall be stored solely in the following manner:

- (1) Within the permitted fireworks stand with a responsible adult on the premises at all times.
 - (2) In a completely enclosed and locked utility type trailer constructed of one-fourth (1/4) inch plywood or other approved noncombustible material.
 - (3) In a completely detached garage on residential property with a minimum ten (10) feet clearance from other structures or property lines. There shall be no open-flame or spark producing equipment, or Class 1 flammable liquids stored or used within the garage.
 - (4) Fireworks shall not be stored within forty (40) feet of any building classified or used as a public or private school, day care facility, residential care facility, hospital, place of detention, public oil/gas station, or public garage, or any place of public assembly that can accommodate fifty (50) or more persons.
 - (5) In an approved and permitted fireworks warehouse.
2. Operator Safety. Each year, one (1) or more representatives from each organization, that is granted a permit to sell fireworks, shall attend a stand operator safety seminar conducted by the City of Modesto Fire Department and the fireworks industry. Failure to attend the seminar shall result in the revocation of the organization's permit to sale fireworks for that calendar year.
3. Temporary Fireworks Stands.
- (1) All retail sales of "Safe and Sane" fireworks shall be permitted only from within a temporary fireworks stand and sales from any other building or structure is hereby prohibited.
 - (2) City Business License, Fire Department Permit and State License shall be displayed in the fireworks stand during hours of operation.
 - (3) Temporary fireworks stand shall not be set up before application for permit has been approved no earlier than June 14.
 - (4) The fireworks stands shall be located at least twenty (20) feet from other structures.
 - (5) Zoning of property, in which the fireworks stand will be located, shall be in accordance with Section 10-2.2330 of the Modesto Municipal Code.
 - (6) Fireworks shall not be stored, sold, offered for sale, or discharged within one hundred (100) feet of a location where gasoline, LPG, other class 1 flammable liquids or flammable gasses are stored or dispensed.
 - (7) All unsold stock and accompanying litter shall be removed from the location by 5:00 p.m. on the 6th day of July.
 - (8) The fireworks stand shall be removed from the temporary location by 12:00 noon on the 12th day of July, and all accompanying litter shall be cleared from said location by said time and date.

- (9) A penalty of one hundred dollars (\$100.00) per day will be assessed to the permittee of any fireworks stand not removed by 12:00 noon on the 12th day of July.

4. Safety Precautions.

- (1) No person under the age of eighteen (18) shall sell, or handle for sale, any classification of fireworks.
- (2) No person under the age of eighteen (18) shall purchase or be allowed to purchase any classification of fireworks.
- (3) Smoking, open-flame, and spark-producing equipment shall be prohibited for a distance of twenty (20) feet around any fireworks stand.
- (4) Dry grass, weeds, trash, and other combustible material shall be removed for a distance of twenty (20) feet around any fireworks stand.
- (5) Fireworks shall not be discharged within fifty (50) feet of a fireworks stand.

5. Stand Construction.

- (1) Merchandise may be displayed in approved glass enclosed counters or showcases, or
- (2) Merchandise may be displayed in stands constructed in the following manner:
 - (A) Walls and roof shall be of plywood at least one-fourth (1/4) inches thick or of an approved noncombustible material.
 - (B) The stand shall be provided with a roof.
 - (C) Walls shall extend to a minimum height of six (6) feet eight (8) inches, on at least three (3) sides. These three (3) sides shall be without openings, except for an exit door.
 - (D) An exit door with a minimum size of twenty-four (24) inches in width and six (6) feet in height shall be provided in each stand. Exits shall be maintained clear and unobstructed at all times.
 - (E) The front wall of the stand shall provide a physical barrier not less than eighteen (18) inches in height between the public and the merchandise on display.
 - (F) Approved "NO SMOKING" signs shall be prominently displayed in and on the stand.
 - (G) Approved "NO SALES TO PERSONS UNDER THE AGE OF 18" signs shall be prominently displayed in the stand.
 - (H) An approved fire extinguisher having a minimum classification of 2A10BC shall be located in the stand, near the exit and readily accessible.
 - (I) Sellers of fireworks shall comply with all rules and regulations of Title 19 of the California Code of Regulations and with the rules and regulations of the Fire Code Official.

- (J) Stands will be limited to twenty-four (24) feet by eight (8) feet or one hundred ninety-two (192) square feet in size. Pre-existing stands as identified by the fireworks suppliers shall retain the right to operate their oversized stands, without change, until said stand or organization forfeits or loses their operating permit. A copy of said list shall remain on file with the Fire Code Official.

6. Operation of Fireworks Stand Only by Permittee.

- (1) It is unlawful for the permittee organization to allow any person or entity other than the permittee organization to operate the fireworks stand for which the permit is issued, whether by agreement, assignment or otherwise, or to otherwise participate in the profits of the operation of such fireworks stand. Violations will result in the immediate loss of the organization's permit.
- (2) It is unlawful for a non-profit organization to allow any person other than the individuals who are members of the permittee organization, their spouses or adult children, or volunteers to whom no compensation is paid, to sell or otherwise participate in the sale of fireworks at such fireworks stand.
- (3) It is unlawful for a non-profit organization to pay any consideration to any person for selling or otherwise participating in the sale of fireworks at such fireworks stand, except the hiring of a night watchman or security officer.

3-1.220 Revocation of Permit and Seizure of Fireworks.

Section 5608 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Revocation of Fireworks Sales Permit. The Fire Code Official, or his/her designee, may revoke, immediately and without notice or hearing, the "Safe and Sane" fireworks sales permit of any location or organization when any of the provisions of Sections 3-1.220, 3-1.221, or 3-1.223 are violated. The Fire Code Official shall inform the permittee that permittee may seek review of the Fire Code Official's decision, by the City Manager, on the next business day. At the earliest opportunity on the next business day after revocation, the Fire Code Official shall provide the City Manager with written notice that a fireworks sales permit has been revoked, including the name of the permittee and a brief statement of the grounds for revocation. If requested by the permittee, the City Manager, or his/her designee, shall meet with the permittee and the Fire Code Official, or his/her designee, that day to review the Fire Code Official's decision. The decision of the City Manager shall be final.

Revocation of any sales permit will be effective for that calendar year.

3-1.221 Fireworks Displays Insurance Required.

Section 5608 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Insurance.

- 1. The permittee shall furnish a certificate of insurance for each policy required, executed by the company issuing such policy, and approved as to form by the Risk Manager.

Such policies shall contain a provision which holds the City as an additional insured and declaring said insurance to be primary and that no other insurance carried by an insured party shall be called upon for contribution. Notwithstanding any other provision of this section, the failure of the permittee to carry such insurance during the time covered by such permit shall automatically revoke the permit as of the date of expiration of such insurance policy or policies. A payment of one hundred and two dollars (\$102.00) shall be made to the City before any such revoked permit may be reinstated.

2. The permittee/licensee shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.
 - (a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of five hundred thousand dollars (\$500,000).
 - (b) General Liability insurance with a minimum limit of liability per occurrence of five million dollars (\$5,000,000) for bodily injury and five hundred thousand (\$500,000) for property damage. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent permittee/licensees and subcontractors; products and completed operations; and professional liability.
 - (c) Automobile Liability insurance with a minimum limit of liability per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand (\$100,000) for property damage or one million (\$1,000,000) combined single limit. This insurance shall cover any automobile for bodily injury and property damage. If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the permittee/licensee shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the permittee/licensee to furnish, deliver or maintain such insurance and certificates as above provided, the permit/license is automatically revoked. Failure of the permittee/licensee to obtain and/or maintain any required insurance shall not relieve the permittee/licensee from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the permittee/licensee concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers. The permittee/licensee's insurance policy(ies) shall include a provision that the

coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The permittee/licensee must deliver certificates evidencing existence of the insurance listed above to the Finance Director at the time the permit is granted.

Permittee/licensee shall provide City with separate endorsements evidencing proof of the City's additional insured status as to both the general liability and automobile liability insurance policies. In addition, permittee/licensee shall provide City with a Worker's Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

For any claims related to a permit, the permittee/licensees insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the permittee/licensee's insurance and shall not contribute with it.

3. The permittee/licensee shall agree to hold the City of Modesto, its agents, officers, employees, and volunteers harmless from and save, defend, and indemnify them against any and all claims, losses, liabilities, and from every cause, including but not limited to injury to person or property or wrongful death, with the indemnity to include reasonable attorney fees and all costs and expenses arising directly or indirectly out of any act or omission of permittee arising out of any activity authorized by the permit.
4. The permittee/licensee shall provide at its own expense and maintain at all times the specified insurance policies with insurance companies approved by the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Finance Director of the City by registered mail, return receipt requested.

3-1.222 Storage of Flammable and Combustible Liquids in Tanks.

Section 5704 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Location Where above Ground Tanks are Prohibited. Storage of Class I and II Liquids in aboveground tanks outside of buildings is prohibited, with the exception of protected tanks designed, installed and maintained in accordance with Chapter 57 of the 2022 California Fire Code. In addition, all above ground tanks shall be UL 2085 listed. The provisions of this section shall not apply to facilities for the production, generation, or transmission of electric energy that provide power to entities furnishing retail electrical services to the general public within the city of Modesto.

3-1.223 Storage of Flammable and Combustible Liquids.

Section 5706 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following amended to read as follows:

Locations Where Above-Ground Tanks are Prohibited. The storage of Class I and II liquids in above-ground tanks is prohibited within the limits established by law as the limits of districts in which such storage is prohibited. All R-1, R-2 and R-3 zoning designations as identified in Title 10 of the Modesto Municipal Code.

3-1.224 Bulk Plants Storage of Flammable and Combustible Liquids.

Section 5706.4 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Bulk Plants. Portions of properties where flammable and combustible liquids are received by tank vessels, pipelines, tank cars or tank vehicles and are stored or blended in bulk for the purpose of distributing such liquids by tank vessels, pipelines, tank cars, tank vehicles or containers shall be in accordance with Section 5706.4.1 through 5706.4.10.4 of the 2022 California Fire Code.

The construction of new bulk plants for storage of flammable or combustible liquids is restricted to areas of the city of Modesto zoned Heavy Industrial Zones (M-2). All existing nonconforming bulk plants for storage of flammable or combustible liquids which substantially comply with the requirements of this Code may be continued in use if a permit therefore shall be granted by the Fire Code Official.

3-1.225 Bulk Transfer and Process Transfer Operations.

Section 5706.5 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Bulk Transfer and Process Transfer Operations. Bulk transfer and process transfer operations shall be in approved locations. Tank cars shall be unloaded only on private sidings or railroad siding facilities equipped for transferring flammable or combustible liquids. Tank vehicle and tank car transfer facilities shall be separated from buildings, aboveground tanks, combustible materials, property lines, streets, alleys or public ways by a distance of twenty (25) feet (7620 mm) for Class I liquids and fifteen (15) feet (4572 mm) for Class II and III liquids measured from the nearest position of any loading or unloading valve.

Tank vehicles and tank cars shall be unloaded as soon as possible after arrival at point of delivery and shall not be used as storage tanks. Unless otherwise approved, a tank car shall not be allowed to remain on a siding at the point of delivery for more than twenty-four (24) hours while connected for transfer operations.

3-1.226 Permits for Liquefied Petroleum Gases.

Section 6101.2 of the 2022 California Fire Code is hereby adopted by reference, in addition to the following:

Permit(s) shall be required as set forth in Sections 105.5 and 105.6.

EXCEPTION:

1. Residential occupancies. Containers shall not exceed ten (10) gallons water capacity with an aggregate total of twenty (20) gallons.
2. Approved containers not exceeding sixteen and four-tenths (16.4) ounces when displayed for sale in mercantile occupancies.
3. Factory installed containers for recreational vehicles not exceeding ten (10) gallon water capacity.
4. Factory installed tanks that are permanently attached to recreational vehicles.

Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the Fire Code Official.

ARTICLE 3. ADMINISTRATION

3-1.301 Fees and Related Fees.

- (a) **Permit Fee.** The Council of the City of Modesto may, by resolution adopted from time to time, fix a fee for any permit issued pursuant to the Fire Code.
- (b) **Plan Check Fee.** When the valuation of proposed construction exceeds one thousand dollars (\$1,000.00), or a plan is required to be submitted, a plan checking fee shall be paid at the time of submitting plans and specifications for checking.

Where plans are incomplete or changed so as to require an additional plan check, an additional plan check fee shall be charged. The Council of the City of Modesto may, by resolution adopted from time to time, fix a fee for plan checking.

Sections 107.1 and 107.5 of the 2022 California Fire Code is hereby added:

107.1 Fees: A permit shall not be issued until the fees have been paid, nor shall an amendment to the permit be released until the additional fee, if any, has been paid.

107.5 Related fees: The payment of the fee for the construction, alteration, removal, or demolition of work done in connection to or concurrently with the work or activity authorized by a permit shall not relieve the applicant or holder of the permit from the payment of the other fees that are prescribed by law.

3-1.302 Appeals.

Applicant may appeal the decision of the Fire Code Official to the City Council within thirty (30) days from the date of the decision being appealed whenever the Fire Code Official:

1. Disapproves an application for use of alternate materials, methods and/or types of construction,
2. Disapproves an application for permit or refuses to grant a permit applied for,
3. When it is claimed that the provisions of the code do not apply, or

4. When it is claimed that the true intent and meaning of the code have been misconstrued or wrongly interpreted.

3-1.303 Administrative Penalties and Remedies.

In addition to any other remedies set forth in this chapter, administrative penalties may be imposed against any person, as defined in Section 1-6.207 of the Modesto Municipal Code, or any responsible party as defined herein for violating any of the requirements set forth in this chapter. Any administrative penalties assessed shall be as follows:

- (a) For violations of Section 3-1.215 possession, manufacture, sale, use or discharge of dangerous fireworks, the administrative penalty shall be one thousand dollars (\$1,000.00) for each specific act found to be in violation of that section.
- (b) For all violations of this chapter, other than Section 3-1.215 possession, manufacture, sale, use or discharge of dangerous fireworks, the amount of the administrative penalty shall be two hundred fifty dollars (\$250.00) for the first violation, five hundred dollars (\$500.00) for a second violation within any twelve (12) month period, and seven hundred fifty dollars (\$750.00) for any subsequent violations within any twelve (12) month period.
- (c) For the purposes of this chapter, the term "responsible party" means any person or persons with the right of possession of the residence or other private property at which dangerous fireworks are possessed, manufactured, sold, used or discharged, including but not limited to:
 - (1) Any owner of the residence or other private property who occupies the residence or private property (hereinafter "owner-occupant"), meaning the record owner of real property as listed in the most current equalized assessment roll as maintained by the Stanislaus County Assessor at the time of the possession, manufacture, sale, storage, use or discharge of dangerous fireworks;
 - (2) Any owner-occupant, lessee, licensee, or other person having control over a property, structure or parcel of land at the time of the possession, manufacture, sale, storage, use or discharge of dangerous fireworks;
 - (3) Any person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering where dangerous fireworks are possessed, manufactured, sold, used or discharged;
- (d) Responsibility for Proper Property Management. Every owner, occupant, lessee, tenant, or holder of any possessory interest of a residence or other private property within the City is required to maintain, manage and supervise property and all persons thereon in a manner so as not to violate the provisions of this chapter. A responsible party need not be present at the time dangerous fireworks are possessed, manufactured, sold, used or discharged in order for the City to issue an administrative citation under this section.
- (e) Nothing in this section shall be intended to limit any of the penalties provided for under the California Health and Safety Code or Penal Code.

SECTION 2. FINDINGS AND DECLARATION. As required by the 2022 California Fire Code, Section 101.1 the Council of the City of Modesto finds and declares that the foregoing additions, modifications and changes to the regulations adopted pursuant to the 2022 California Fire Code are reasonably necessary because of local climate and geographic conditions. The ordinance also prescribes local procedures to be used in the administration and enforcement of this Code; provides for local interpretations of this Code and makes other changes in this Code consistent with local custom and practices as reflected in the prior local Fire Code.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. SAVINGS. The provisions of this ordinance shall not affect any proceedings, suit or prosecution heretofore or hereafter commenced under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance shall be discharged or affected by the adoption of this ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted or proceeded with in all respects as if this ordinance had not been adopted.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the

official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

SECTION 6. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 7. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March, 2023, by Councilmember Wright who moved its introduction and passage to print, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

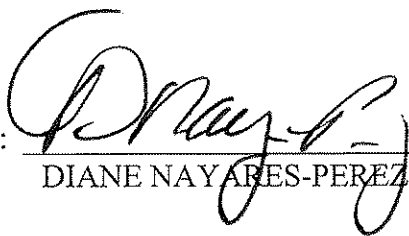
By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 4th day of April, 2023, Councilmember Escutia-Braaton moved its final adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYABES-PEREZ, City Clerk

Effective Date: May 4, 2023

ORDINANCE NO. 3761-C.S.

AN ORDINANCE AMENDING SECTION 27-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM LOW-DENSITY RESIDENTIAL, R-1, TO MEDIUM-HIGH DENSITY RESIDENTIAL, R-3, PROPERTIES LOCATED 1505 AND 1513 SCENIC DRIVE (CITY OF MODESTO).

WHEREAS, a verified application for an amendment to Section 27-3-9 of the Zoning Map was filed by Ulises Belmonte on November 7, 2022, to rezone from Low-Density Residential, R-1, to Medium-High Density Residential, R-3, properties located 1505 and 1513 Scenic Drive; and

WHEREAS, after a public hearing held on January 23, 2023, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because the proposed rezone will make possible future development of multi-family residential projects that are compatible with nearby multi-family residential uses, the requested zone change will result in an orderly planned use of land because the proposed rezone is consistent with the adjacent residential zone and land uses and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the proposed rezone conforms to the General Land Use designation of Residential Use (R); and

WHEREAS, by Resolution No. 2023-02, adopted on January 23, 2023, the Planning Commission recommended to the Council that the application of Ulises Belmonte to amend Section 27-3-9 of the Zoning Map to rezone the hereinafter described property from Low-Density Residential, R-1, to Medium-High Density Residential, R-3, be approved.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. After a public hearing held on April 4th, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because the proposed rezone will make possible future development of multi-family residential uses.
2. The requested change will result in an orderly planned use of land because the proposed rezone is consistent with the adjacent residential zone and land uses.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the proposed rezone conforms to the General Plan Land Use designation of Residential Use (R).

SECTION 2. ZONING CHANGE. Section 27-3-9 of the Zoning Map is hereby amended to rezone the following described property from Low-Density Residential, R-1, to Medium-High Density Residential, R-3:

R-1 to R-3

All that portion of Lot 40 of Broughton Colony, according to the Official map thereof, filed in the Office of the Recorder of Stanislaus County, California, on March 17, 1904 in Volume 1 of Maps, at Page 78, particularly described as follows:

Commencing at the Northwest corner of Lot 40, said corner being in the centerline of a 40 foot avenue; thence South 0°30' East along the West line of Lot 40 and along the centerline of 40 foot avenue 625.05 feet to the Southwest corner of second parcel of land conveyed to Francis E. Bishop, et ux, by Deed recorded August 3, 1944 as Instrument No. 11023; thence North 74°20' East 20.72 feet to the East line of 40 foot Avenue to the True Point of Beginning of this description; thence continuing North 74°20' East along the Southerly line of said Bishop land and along the centerline of a concrete pipeline, 77.72 feet; thence south 0°30' East 191.56 feet; thence South 73°48'30" West along the South line of Lot 40, 77.90 feet;

thence North 0°30' West along East line of 40 foot Avenue 192.20 feet to the True Point of Beginning of this description.

EXCEPTING THEREFROM that parcel granted to the City of Modesto recorded August 2, 1988, Instrument No. 51495 described as follows:

Commencing at the Southwestern corner of said Lot 40, said point being on the Centerline of Brighton Avenue; thence North 74°24'30" East, 20.77 feet to the Southwestern corner of property conveyed to Nick Masellis, et ux, by Deed recorded May 6, 1977 in Book 2911 of Official Records, at page 01, Stanislaus County Records, and the True Point of Beginning of this description; thence continuing along the Northern line of Scenic Drive North 74°24'30" East, 77.90 feet, to the Southeastern corner of said Masellis property, thence along the Eastern line of Masellis property North 00°05'25" East 20.77 feet, to a point on a line which is parallel with and 20.00 feet, measured at right angles, Northerly from said Northern line of Scenic Drive; thence along said Parallel line, South 74°24'30", West 47.72 feet; thence Northwesterly along a tangent curve concave to the Northeast, having a Radius of 15.00 feet, a central angle of 105°40'55" and an arc length of 27.67 feet to its' point of tangency on a line which is parallel with and 30.00 feet, measured at right angles, Easterly from said centerline of Brighton Avenue; thence along a radial line, North 89°54'35" West, 10.00 feet, to the Eastern line of 40.00 foot Brighton Avenue; thence along said last mentioned Eastern line of Brighton Avenue, South 00°05'25" West, 43.37 feet to the point of beginning.

Including also the eastern half of Brighton Avenue and the northern half of Scenic Drive, all being immediately adjacent to the above description.

1505 Scenic Drive
APN: 034-008-010
.29 Acres

R-1 to R-3

Parcel No. 1:

All that portion of Lot 40 of Broughton Colony, as per map filed March 17, 1904 in volume I of maps, page 78, Stanislaus County Records, particularly described as:

Commencing at the northwest corner of Lot 40, said corner being in the center line of a 40 foot avenue; thence south 0°30' east along the west line of lot 40 and along the centerline of 40 foot avenue 625.05 feet to the southwest corner of the second parcel of land, described in the deed to Francis E. Bishop, et ux, by deed recording August 3, 1944 as instrument No. 11023; thence north 74°20' east and along the southerly line of said Bishop land, being the center line of a concrete pipe line, 98.44 feet to the point of commencement of this description; being the northeast corner of premises conveyed to Joseph F. Maroney and Kathleen Maroney, by deed recorded October 11, 1945 instrument No. 18187; thence continuing north 74°20' east 77.72 feet along the southerly line of said Bishop Land to a point; thence south 0°30' east 190.91 feet to a point on the south line of said lot 40 and north line of county road; thence south 73°48'30" west, a distance of 77.90 feet to a point to the southeast corner of premises conveyed to Maroney as aforesaid; thence north 0°30' west along the easterly line of said Maroney lands 191.56 feet to the point of beginning.

Parcel No. 2:

All that portion of lot 40 of the Broughton colony, as per map filed March 17, 1904 in volume 1 of maps, page 78, particularly described as follows:

Commencing at the northwest corner of lot 40, said corner being in the centerline of a 40 foot avenue; thence south 0°30' east along the west line of lot 40 and along the center line of a 40 foot avenue 625.05 feet; thence north 74°17' east along the center line of a concrete pipe line 176.16 feet; thence south 0°30' 125.91 feet to the true point of beginning of this description; thence, continuing south 0°30' east 65.00 feet: thence north 17' west 63.04 feet to the true point of beginning of this description.

Including also the northern half of Scenic Drive, all being immediately adjacent to the above description.

1513 Scenic Drive
034-008-011
.30 Acres

SECTION 3. ZONING MAP. Section 27-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April, 2023, by Councilmember Bavaro, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

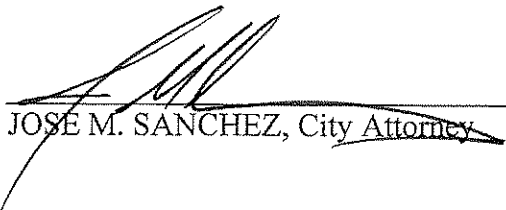
APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

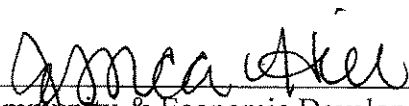
By: 
DIANE NAYERES-PÉREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing Ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 11th day of April, 2023, Councilmember Bavaro moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: May 11, 2023

ORDINANCE NO. 3762-C.S.

AN ORDINANCE AMENDING SECTION 10-4.102 OF TITLE 10, CHAPTER 4 (DEVELOPMENT STANDARDS), ARTICLE 1 (RESIDENTIAL ZONES); REPEALING SECTION 10-4.115 AND SECTION 10-4.116 OF TITLE 10, CHAPTER 4 (DEVELOPMENT STANDARDS), ARTICLE 1 (RESIDENTIAL ZONES); ADDING ARTICLE 5 REGARDING ACCESSORY DWELLING UNITS TO TITLE 10, CHAPTER 4 (DEVELOPMENT STANDARDS); AND REPEALING AND REPLACING CHAPTER 8 OF TITLE 10 REGARDING DENSITY BONUS AND AFFORDABLE HOUSING

WHEREAS, housing production in State of California has not kept pace with demand, resulting in the lack of housing and in particular lack of affordable housing; and

WHEREAS, changes to state laws that became effective on January 1, 2022 and January 1, 2023 are intended to encourage the development of accessory dwelling units in areas zoned for single-family and multi-family uses to contribute to the affordable housing supply in the city; and

WHEREAS, changes to state Density Bonus laws that became effective on January 1, 2022 are intended to encourage the production of housing affordable to lower incomes; and

WHEREAS, the changes to state laws are intended to off-set the cost of production for developers to contribute to the affordable housing supply in the city; and

WHEREAS, this code amendment will update the City of Modesto's Zoning Regulations consistent with state law regarding accessory dwelling units and with state law regarding the provision of density bonuses for affordable housing; and

WHEREAS, this code amendment is necessary at this time as the city undertakes an update of both the General Plan and the Housing Element; and

WHEREAS, a public hearing was held by the Planning Commission on February 6, 2023, in the Chambers, 1010 Tenth Street, Modesto, California at which hearing evidence both oral

and documentary was received and considered; and

WHEREAS, the proposed code amendment that addresses regulations for accessory dwelling units is Statutorily Exempt from CEQA pursuant to Section 15282 (h) of the State CEQA Guidelines that exempts the adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code; and

WHEREAS, the proposed code amendment that addresses state density bonus law is not a project that would have a significant effect on the environment, therefore it is not subject to CEQA pursuant to Section 15061 (b)(3) of the State CEQA Guidelines, the “commonsense exemption,” which reasons that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and

WHEREAS, after a public hearing held on February 6, 2023, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because providing more housing and especially affordable housing will benefit the community; and

WHEREAS, the requested code amendment will result in an orderly planned use of land because the amended regulations for accessory dwelling units will clarify where and how accessory dwelling units may be built; and

WHEREAS, the requested code amendment will result in an orderly planned use of land because the amended regulations will establish the regulations for density bonuses to encourage the production of housing for low-income persons and families; because it is in accordance with the community’s objectives as set forth in the General Plan and any applicable specific plan(s)

because the proposed code amendment will encourage the provision of more affordable housing consistent with the goals of the Housing Element, a portion of the General Plan, and

WHEREAS it is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the proposed code amendment allows for the development of more accessory dwelling units consistent with the goals of the Housing Element, a portion of the General Plan; and

WHEREAS, by Resolution No. 2023-05 and Resolution No. 2023-06 adopted on February 6, 2023, the Planning Commission recommended to the Council that the proposed amendments to Title 10 of the Modesto Municipal Code including the amendment of Section 10-4102, repeal of Section 10-4.115 and Section 10-4.116, the addition of a new Article 5 to the Modesto Municipal Code and the repealing and replacement of Chapter 8, be approved; and

WHEREAS, this Code amendment was set for a public hearing on April 4, 2023, before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment of Section 10-4.102, repeal of Sections 10-4.115, and Section 10-4.116, the addition of Article 5 and the repealing and replacing of Chapter 8 to the Modesto Municipal Code; and

WHEREAS, evidence, both written and oral, was duly presented and considered by the City Council at the aforesaid public hearing; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

WHEREAS, after a public hearing held on April 4, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because providing more housing in compliance with building standards, especially affordable housing, will benefit the community.
2. The requested change will result in an orderly planned use of land because the amended regulations for accessory dwelling units will clarify where and how accessory dwelling units may be built.
3. The requested change is in accordance with the community’s objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments allow for the development of more accessory dwelling units consistent with the goals of the Housing Element, a portion of the General Plan.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 4, “Development Standards,” Article 1, “Residential Zones,” Section 10-4.102, Table 4.1-1 “Residential Development Standards, is hereby amended to read as follows:

Table 4.1-1 Residential Development Standards

Development Standards	Zoning Districts			Notes
	R-1	R-2	R-3	
LOT REQUIREMENTS				
Area (minimum in Sq Ft)				
Interior Lot	5,000	6,000	6,000	See Section 10-4.103
Corner Lot	5,500	6,500	6,500	
Density				
Minimum	-	-	-	See Section 10-4.104
Maximum	-	-	-	
Width (minimum in feet)				
Interior Lot	50	60	60	See Section 10-4.105 a
Corner Lot	60	60	60	See Section 10-4.105 b
Flag Lot	20	20	20	See Section 10-4.105 c
Coverage (maximum in %)				
Interior Lot	50	55	60	See Section 10-2.141.

Corner Lot	55	60	65	For accessory dwelling units, see Article 5.	
SETBACK REQUIREMENTS					
Front and Street-Side(corner lot) (minimum in feet)				See Section 10-4.106	
Buildings (except garage, carport, parking space)	15	15	15		
Garage, Carport, Parking Space (Side facing/front facing)	15/20	15/20	15/20		
Side, (interior) (minimum in feet)				See Section 10-4.107	
Buildings, Main - One Story Portion	5	5	5		
- Two Story Portion	Adjacent to R-1 ⁽¹⁾	10	15	15	See Sections 10-4.107 a and 10-4.110 for 2 nd story dwellings
	Not Adjacent to R-1 ⁽¹⁾	10	10	10	
- Three Story Portion	Adjacent to R-1 ⁽¹⁾	-	-	20	
	Not Adjacent to R-1 ⁽¹⁾	-	-	10	
Accessory Building, Garage, Carport, Parking Space - One Story	5	5	5	See Section 10-4.114	
	- Two Stories		5	5	
Accessory Dwelling Unit				See Article 5	
Rear (minimum in feet)					
Buildings, Main - One Story Portion	10	10	10	See Section 10-4.108 a	
- Two Story Portion		15	15	15	
- Three Story Portion	Adjacent to R-1 ⁽¹⁾	-	-	20	
	Not Adjacent to R-1	-	-	15	
Accessory Building, Garage, Carport, Parking Space - One Story	5	5	5	See Section 10-4.108 b, and 10-4.114	
	- Two Stories	5	5	5	
HEIGHT REQUIREMENTS					
Structure (maximum height in stories/feet, whichever is less)	2/30	2/30	3/42	See Sections 10-4.109 and 10-4.110	
OTHER REQUIREMENTS					
Parking				See Chapter 5	
Signs				See Chapter 6	
Fencing				See Section 10-4.406	
Street Frontage				See Section 10-4.111	
Lots with Existing Units				See Section 10-4.112	
Design				See Section 10-4.113	
⁽¹⁾ Adjacent to R-1 zone includes property zoned R-1 in the City including P-D zones (with R-1 density) and property zoned A-2, R-A, and R-1 in the County.					

SECTION 2. REPEALING OF SECTIONS. Title 10 of the Modesto Municipal Code, Chapter 4, “Development Standards,” Article 1, “Residential Zones,” Sections 10-4.115 and 10-4.116 are hereby repealed.

- 5 -

ORDINANCE NO. 3762-C.S.
EFFECTIVE DATE: May 11, 2023

4.116 are hereby repealed in their entirety.

SECTION 3. ADDITION OF CODE. Title 10 of the Modesto Municipal Code, Chapter 4, “Development Standards,” Article 5, “Accessory Dwelling Units.” is hereby added to read as follows:

Article 5. - Accessory Dwelling Units

10-4.501- Purpose and intent.

This Article implements the requirements of Government Code Sections 65852.2 and 65852.22.

10-4.502 - Accessory Dwelling Units - General.

- (a) The following regulations provided below and in apply to accessory dwelling units and junior accessory dwelling units in any zone that allows single-family or multi-family, or mixed-use.
- (b) Accessory dwelling units and junior accessory dwelling units may only be rented in increments of thirty (30) days or more.
- (c) An accessory dwelling unit includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code.
- (d) An accessory dwelling unit includes a manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (e) These regulations may be applicable to lots zoned for single-family residential uses and built with units in compliance with Senate Bill No. 9 (Chapter 162, Statues of 2021).
- (f) An Accessory Dwelling Unit (ADU) or Junior Accessory Dwelling Unit (JADU) conforming to the standards of this Article shall:
 - (1) Be deemed to be an accessory use or accessory building.
 - (2) Be deemed a residential use that is consistent with the existing General Plan or zoning designation for the lot.
 - (3) Not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 - (4) Not be considered to exceed the allowable density for the lot upon which the ADU or JADU is located.
 - (5) Not be considered to be a new residential use for calculating connection fees or capacity charges for utilities, including water and sewer services, unless the ADU or JADU was constructed with a new single-family dwelling.
 - (6) Except as provided in Government Code Section 65852.26, an accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
 - (7) A JADU shall not be sold separate from the single-family residence.

10-4.503 - Application Filing, Processing, and Review.

- (a) Ministerial Approval Only. A local agency shall ministerially approve an application for a building permit for an ADU or JADU.
 - (1) Timeframe for Review. If there is an existing single-family or multi-family dwelling on the lot, the permitting agency shall either approve or deny the application within sixty (60) days from the date the permitting agency receives the completed application.
 - (i) If the applicant requests a delay, the sixty (60)-day time period shall be tolled for the period of the delay.
 - (2) If the local agency has not approved or denied the completed application within sixty (60) days, the application shall be deemed approved.
 - (3) If a building permit for an ADU or JADU is submitted with a permit application for a new single-family or multi-family dwelling on the lot, the permitting agency may delay approval of the ADU or JADU application until the permitting agency either approves or denies the application to create the new single-family or multi-family dwelling.
 - (4) A demolition permit for a detached garage that will be replaced with an ADU, shall be reviewed with the application for the ADU and issued at the same time.
 - (i) Written notice or the posting of a placard for the demolition of a detached garage, per subparagraph (4), above, shall not be required, unless the subject property is located within an architecturally and historically significant historic district, or is listed on a local, statewide, or national register of historically significant structures.
 - (5) If the permitting agency denies an application for an ADU or JADU, the permitting agency shall, within the sixty (60) daytime-period, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.
- (b) **Fire Sprinklers.** An ADU shall not be required to provide fire sprinklers if they are not required for the primary residence; and the construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- (c) **Passageways.** The construction of an ADU shall not trigger a requirement for construction of a passageway, as defined in Government Code Section 65852.2.
- (d) **Nonconforming Zoning Conditions.** The construction of an ADU shall not trigger requirements to correct nonconforming zoning conditions. No increase in of nonconforming zoning conditions shall be allowed.
- (e) **Building Code Requirements.** Local building code requirements that apply to detached dwellings shall apply to ADUs, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency make a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety.
 - (1) Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.

- (f) **Other Regulations.** No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or use permit under this subdivision.
- (g) **Construction Fees.** Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012) of the Modesto Municipal Code.
- (h) **Utilities.** An ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculation connection fees or capacity changes for utilities, including water and sewer service, unless the ADU was constructed with a new single-family dwelling.
- (i) **Impact Fees, under 750 square feet.** A local agency, special district, or water corporation shall not impose any impact fee upon the development of an ADU less than seven hundred fifty (750) square feet.
- (j) **Impact Fees, 750 or more square feet.** An impact fee charged for an ADU of seven hundred fifty (750) square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- (k) **Lot Coverage.** For an ADU of eight hundred (800) square feet or less, lot coverage as shown on Table 4.1-1 shall not apply

10-4.504 - Types and Locations of Accessory Dwelling Units (ADU).

- (a) **Attached.** An ADU may be attached to a proposed or existing primary single-family or multi-family dwelling.
- (b) **Detached.** An ADU may be detached (free-standing) from the proposed or existing primary single-family or multi-family dwelling on the same lot.
- (c) **Converted.** An ADU may be located within the proposed or existing primary single-family or multi-family dwelling, in areas currently not used for living spaces (e.g., garage or laundry room), or in an existing (free-standing) accessory building on the lot.
- (d) **Junior ADU (JADU).** A JADU is a special type of ADU that is not more than five hundred (500) square feet in size and is contained entirely within the walls of an existing or proposed single-family residence.

10-4.505 - Number and type of Accessory Dwelling Units Permitted.

(a) Lots with a Single-family Dwelling.

- (1) One (1) Junior Accessory Dwelling unit (JADU) is allowed per lot in a residential or mixed-use zone, where there is only one (1) existing or one (1) proposed single family dwelling.
 - (i) Junior Accessory Dwelling Units shall conform to the requirements in Section 10-4.508, below.
- (2) One (1) Detached (new construction) ADU is allowed per lot in a residential or mixed-use zone, where there is only one (1) existing or one (1) proposed single family dwelling:
 - (i) Not exceeding 850 square feet in floor area (one bedroom); This does not preclude the creation of an efficiency unit.
 - (ii) Not exceeding 1,200 square feet in floor area (more than one bedroom).

(iii) Four (4) foot side and four (4) foot rear yard setbacks are allowed.

(b) Lots with Multi-family Dwellings.

- (1) Within an existing multifamily dwelling, a maximum of twenty-five (25) percent of the existing multifamily dwelling units, minimum one (1), is allowed.
 - (i) These ADUs may be built in the portions of existing multifamily structures not currently used as living space (e.g., storage rooms, boiler rooms, passageways, attics, and garages).
- (2) Not more than two (2) detached ADUs may be added to a lot that has an existing or proposed multifamily dwelling.

10-4.506 - Accessory Dwelling Units (ADUs): Maximum Sizes.

- (a) **Attached ADUs.** If there is an existing primary dwelling on the lot, then the total floor area of an attached accessory dwelling unit shall not exceed fifty (50) percent of the existing primary dwelling.
- (b) **Detached ADUs.** The total floor area for a detached accessory dwelling unit shall not exceed twelve hundred (1,200) square feet or the square footage of the primary structure, whichever is less.
- (c) A JADU shall not exceed five hundred (500) square feet in area.

10-4.507 - Accessory Dwelling Unit: Height Limits.

(a) Lots with a Single-family Dwelling.

- (1) A height limit of sixteen (16) feet; or,
- (2) A height limit of eighteen (18) feet, if the lot is within one-half mile (walking distance) of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code.
- (3) An additional two (2) feet in height is allowed to accommodate a roof pitch on an accessory dwelling unit that is aligned with the roof pitch of the primary dwelling.
- (4) For an ADU that is attached to a primary dwelling, a maximum height of 25 feet or the height limitation in the zone that applies to the single-family dwelling, whichever is lower. This does not require the City to allow an accessory dwelling unit to exceed two stories.
- (5) For an ADU that is built as a second floor to an existing or proposed detached garage the maximum height is 25 feet.

(b) Lots with Multifamily Dwellings.

- (1) A height limit of sixteen (16) feet; or,
- (2) A height limit of eighteen (18) feet on a lot with a multistory, multifamily dwelling; or
- (3) A height limit of eighteen (18) feet, if the lot is within one-half mile (walking distance) of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code.

10-4.508 - Junior Accessory Dwelling Units (JADU).

- (a) A junior accessory dwelling unit (JADU) shall be contained within the walls of the existing or proposed single-family residence.
 - (1) For the purposes of this section, contained within, a single-family residence includes the conversion of an attached garage.
- (b) A JADU shall not exceed five hundred (500) square feet in area.
- (c) The JADU shall include a separate entrance from the main entrance to the existing or proposed single-family dwelling.
- (d) If the JADU does not include a separate bathroom, the JADU shall include a separate entrance from the main entrance to the structure and an interior entry to the main living area.
- (e) A junior accessory dwelling unit shall have an efficiency kitchen which includes all of the following:
 - (1) A cooking facility with appliances;
 - (2) A food preparation counter; and
 - (3) Storage cabinets of a reasonable size in relation to the size of the JADU.
- (f) Prior to final inspection of a JADU, the property owner shall record a notice of conditions (deed restriction), which shall run with the land, specifying that owner shall occupy either the JADU or the remaining portion of the single-family residence at all times, unless the owner is a governmental agency, land trust, or housing organization.
- (g) Prior to final inspection of a JADU, the property owner shall record with the City a deed restriction, which shall run with the land, that shall include both of the following:
 - (1) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
 - (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with Government Code Section 65852.22.

10-4.509 - Parking, Accessory Dwelling Units.

- (a) No more than one (1) off-street parking space shall be required for an accessory dwelling unit.
 - (1) Parking may be tandem in an existing driveway.
 - (2) An uncovered off-street parking space, for an accessory dwelling unit, may be located, on a paved surface, in either a required front setback (existing driveway) or (if a lot has alley access) in a required rear setback.
- (b) When a garage, carport, or other covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or is converted to an accessory dwelling unit, the lost off-street parking is not required to be replaced.
- (c) No parking is required for an accessory dwelling unit if:
 - (1) The unit is within one-half (0.5) mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - (2) The accessory dwelling unit is within an architecturally and historically significant district.
 - (3) The accessory dwelling unit is part of the proposed or existing primary residence or an existing accessory structure.

- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one (1) block of the accessory dwelling unit.
- (d) No additional parking is required for a Junior Accessory Dwelling Unit.

10-4.510 - General Development Standards.

- (a) The maintenance of a single-family dwelling appearance is encouraged through means such as:
 - (1) For an attached ADU or JADU, locating the second unit entrance to the side or rear of the main building so it is not readily visible from the street.
 - (2) Employing construction materials and architectural styles which blend the units so they appear as a single residence (if attached) or as single residence and accessory building, if detached.
- (b) Where a second story accessory dwelling unit (ADU) is built adjacent a rear or side yard of a lot developed with a one (1) story, single-family residential dwelling, any walls of the accessory dwelling unit that could provide unobstructed views of a neighboring rear yard or actively used side yard shall have either no windows or windows with a bottom sill located at least five (5) feet eight (8) inches from the finished floor of the second story. This does not apply to a window required by the Building Code to be usable for accessible emergency access.
- (c) The City Council may designate, from time to time, by resolution, areas within which accessory dwelling units will not be permitted due to infrastructure constraints relating to water and sanitary sewer.

SECTION 4. REPEALING AND REPLACING. Title 10 of the Modesto Municipal Code, Chapter 8, “Affordable Housing,” is hereby repealed and replaced to read as follows.

Chapter 8

AFFORDABLE HOUSING

Article 1. - Density Bonus: General Provisions

10-8.101- Purpose and Intent.

This Chapter implements the requirements of Government Code Section 65915. The intent of a density bonus or other incentives offered by the city is to contribute significantly to the economic feasibility of lower income housing in proposed developments. In the absence of an agreement by a developer in accordance with this Chapter, the city shall not offer a density bonus or any other incentive that would undermine the intent of Government Code Section 65915.

10-8.102 - Statement of Authorization.

The City may grant a housing development, meeting the requirements of this Article and Government Code Section 65915, either of the following:

- (1) A density bonus greater than what is described in this Chapter; or,
- (2) For housing developments that do not meet the requirements of this article, a proportionately lower density bonus.

10-8.103 - Consistency with California Government Code.

A Density bonus for a housing development, or for the donation of land for housing within the City shall be governed by and shall be in accordance with the provisions of California Government Code Section 65915.

Article 2. - Density Bonus: Definitions

Unless otherwise specified below, the following words or phrases are limited to use in this Chapter.

10-8.201 - Development Standard. A Development Standard includes a site or construction condition, including but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law policy, resolution or regulation.

10-8.202 - Located Within one-half mile of a major transit stop. Means that any point on a proposed development, for which an applicant seeks a density bonus, other incentives or concessions, waivers or reductions of development standards, or a vehicular parking ratio pursuant to this section, is within one-half mile of any point on the property on which a major transit stop is located, including any parking lot owned by the transit authority or other local agency operating the major transit stop.

10-8.203 - Lower income student. Means a student who has a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student to occupy a unit for lower income students under this section shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education in which the student is enrolled or by the California Student Aid Commission that the student receives or is eligible for financial aid, including and intuitional grant or fee waiver from the college or university, the California Student Aid Commission, or the federal government.

10-8.204 - Maximum allowable residential density. Means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is

inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

10-8.205 - Very-Low-Income Households. As defined in Section 50105 of the Health and Safety Code, “very low-income households” means persons and families whose incomes do not exceed the qualifying limits for very low-income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. “Very low-income households” includes extremely low-income households, as defined in Section 50106.

10-8.206 - Area median income means the median family income of Stanislaus County as set by the U.S. Department of Housing and Urban Development (HUD).

10-8.207 - Low or Moderate-Income Households. Persons and families of low or moderate income means persons and families whose income does not exceed 120 percent of area median income. Persons and families of low or moderate income includes very low-income households; extremely low-income households; and lower income households as defined in Sections 50105, 50106, and 50079.5 of the Health and Safety Code.

10-8.208 - Total units or total dwelling units. Means a calculation of the number of units that:

- (a) Excludes a unit added by a density bonus awarded pursuant to this article or any local law granting a greater density bonus.
- (b) Includes a unit designated to satisfy an inclusionary zoning requirement of the city.

10-8.209 - Unobstructed access to the major transit stop. Means a resident is able to access the major transit stop without encountering natural or constructed impediments. For purposes of this subparagraph, “natural or constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

10-8.210 - Density bonus. Means a density increase over the otherwise maximum allowable gross residential density as of the date of the application by the applicant to the city, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.

Article 3. - Density Bonus: Projects Ineligible for a Density Bonus

10-8.301 - Ineligible Projects. Pursuant to Government Code Section 65915, a housing development shall be ineligible for a density bonus or any other incentive or concession, if any of the following is applicable:

- (a) The housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the density bonus application, have been subject to a recorded

covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; or,

- (b) The housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are subject to any other form of rent or price control through a public entity's valid exercise of its police power; or,
- (c) The housing development is proposed on any property that includes a parcel or parcels on which dwelling units are occupied by lower or very low-income households.

10-8.302 A housing development found ineligible for a density bonus pursuant to Section 10-8.301 and Government Code Section 65915, may be deemed eligible if the proposed housing development replaces those units, specified in section 10-8.301, and either of the following applies:

- (a) The proposed housing development, inclusive of the units replaced pursuant to this article, contains affordable units at the percentages set forth in Article 8 (Density Bonus: Calculations), or,
- (b) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low-income household.

10-8.303 For the purposes of this article, "**replace**" shall mean either (a) or (b), below, as applicable.

- (a) **Occupied Units.** If any dwelling units described in section 18-8.301 are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy.
- (b) **Unoccupied Units.** For unoccupied dwelling units described in section 18-8.301 in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy.
- (c) If the income category of *the last household in occupancy* or of *the household in occupancy* is not known (whichever is applicable) it shall be rebuttably presumed that lower income renter households occupied those units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database.
- (d) All replacement calculations resulting in fractional units shall be rounded up to the next whole number.
- (e) If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years.
- (f) If the proposed development is for-sale units, the units replaced that be subject to Section 10-8.808 (For Sale Units) in Article 8 (Density Bonus: Calculations).

10-8.304 Notwithstanding Section 10-8.301 and 10-8.302, above, for any dwelling unit described in Section 10-8.301 that is or was, within the five-year period preceding the [Density Bonus] application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the City may do either of the following:

- (a) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction of at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to the requirements of Section 10-8.808; or,
- (b) Require that the units to be replaced in compliance with the City's rent or price control ordinance, provided that each unit described in Section 10-8.301 is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

Article 4. - Density Bonus: Incentives or Concessions

10-8.401 – For the purpose of this Chapter, incentive or concession means any of the following:

- (a) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Article 8 (Density Bonus: Calculations).
- (b) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
- (c) Other regulatory incentives or concession proposed by the developer or the city that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Article 8 (Density Bonus: Calculations).

- (d) This Article does not limit or require the provision of direct financial incentive for the proposed housing development, including the provision of publicly owned land, by the city, or the waiver of fees or dedication requirements.

10-8.402 - Applicant request.

In compliance with this Chapter and Government Code Section 65915 (d) and (e), an applicant for a density bonus may submit a proposal to the city for specific incentives, concessions, and/or a waiver or reduction of development standards that would have the effect of physically precluding the construction of a development meeting the requirements of this Chapter; and may request a meeting with the Department.

10-8.403 - Consideration of incentives, concessions, and/or a waiver or reduction of development standards. The city shall grant the concession, incentive, and/or waiver or reduction of development standards requested by the density bonus applicant, unless the city makes a written finding, based upon substantial evidence, of any of the following:

- (a) The proposed concession or incentive does not result in identifiable and actual cost reductions, consistent with this section, to provide for affordable housing costs as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Article 8 (Density Bonus: Calculations).
- (b) The proposed concession, incentive, and/or waiver or reduction of development standards would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or on any real property that is listed in the California Register of Historic Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.
- (c) The proposed concession, incentive, and/or waiver or reduction of development standards would be contrary to state or federal law.

10-8.404 - Number of incentives or concessions.

An applicant shall receive the following number of incentives or concessions. A proposal for a waiver or reduction of development standards pursuant to this article shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled to pursuant to this Article.

- (a) One (1) incentive or concession for a project that includes either of the following:
 - (1) At least ten (10) percent of the total units for lower income households, at least five (5) percent for very low-income households, or at least ten (10) percent for persons and families of moderate income in a development in which the units are for sale; or
 - (2) At least twenty (20) percent of the total units for lower income students in a student housing development.
- (b) Two (2) incentives or concessions for a project that includes at least seventeen (17) percent of the total units for lower income households, at least ten (10) percent for very low-income

households, or at least twenty (20) percent for persons and families of moderate income in a development in which the units are for sale.

- (c) Three (3) incentives or concessions for a project that includes at least twenty-four (24) percent of the total units for lower income households, at least fifteen (15) percent for very low-income households, or at least thirty (30) percent for persons and families of moderate income in a development in which the units are for sale.
- (d) Four (4) incentives or concessions for a project where one-hundred (100) percent of all units in the development, including total units and density bonus units, but excluding a manager's unit(s), are for lower income households, as defined in Section 50079.5 of the Health and Safety Code, except that up to twenty (20) percent of the units in the development, including total units and density bonus units, may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code.
 - (1) If a project in subparagraph (d), above, is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three (3) additional stories, or thirty-three (33) feet.

10-8.405 - Approval or denial of proposed incentives or concessions.

Approval or denial of the requested incentives or concessions, shall be by the City Council. Denial shall be by a written finding, based upon substantial evidence, pursuant to section 10-8.403, above.

Article 5. - Density Bonus: Reduced Parking Ratios

10-8.501. Except as provided in Sections 10-8.502, 10-8.503, and 10-8.504, below, upon the request of the developer, the city shall not require a vehicular parking ratio, inclusive of parking for persons with a disability and guests, for a development meeting the criteria of Article 8 (Density Bonus: Calculations) that exceeds the following ratios:

- (a) Zero (0) to one (1) bedroom; one (1) onsite parking space.
- (b) Two (2) to three (3) bedrooms: one and one-half (1.5) onsite parking spaces.
- (c) Four (4) and more bedrooms: two and one-half (2.5) onsite parking spaces.

10-8.502. Notwithstanding Section 10-8.501, if a development includes at least twenty (20) percent low income units for housing developments meeting the criteria of Section 10-8.801 of Article 8 (Density Bonus: Calculations) or at least eleven (11) percent very low-income units for housing developments meeting the criteria of Section 10-8.801 of Article 8 (Density Bonus: Calculations), is located within one-half mile of a major transit stop, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guests, that exceeds one-half (0.5) spaces per unit.

10-8.503. Notwithstanding Section 10-8.501, if a development includes at least forty (40) percent moderate-income units for housing developments meeting the criteria of Section 10-8.804 of

Article 8 (Density Bonus: Calculations), is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and the residents of the development have unobstructed access to the major transit stop from the development, then upon the request of the developer, the city shall not impose a vehicular parking ratio, inclusive of parking for persons with a disability and guest, that exceeds one-half (0.5) spaces per bedroom.

10-8.504. Notwithstanding Section 10-8.501, if a development consists solely of rental units, exclusive of a manager's unit(s), with an affordable housing cost to lower income families as provided in Section 50052.5 of the Health and Safety Code, then upon the request of the developer, the city shall not impose vehicular parking standards if the development meets either of the following criteria:

- (a) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development; or,
- (b) The development is a for-rent housing development for individuals who are sixty-two (62) years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight (8) times per day.

10-8.505. Notwithstanding Section 10-8.501, if a development consists solely of rental units, exclusive of a manager's unit(s), with an affordable housing cost to lower income families as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code, then upon the request of the developer, the city shall not impose any minimum vehicular parking requirement.

- (a) A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight (8) times per day.

10-8.506. For the purposes of this article, "unobstructed access to the major transit stop" means a resident is able to access the major transit stop without encountering natural or constructed impediments. Nature or constructed impediments includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rail used for transit.

10-8.507. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.

10-8.508. For the purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through on-street parking.

10-8.509. A request pursuant to this article shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Article 4 (Density Bonus: Incentives or Concessions).

Article 6. - Density Bonus: Donation of Land

10-8.601 When an applicant for a subdivision pursuant to Government Code Section 66410, et seq.; or other residential development approval donates land to the city, in accordance with this article, the applicant shall be entitled to a fifteen (15) percent increase above the otherwise maximum allowable residential density for the entire development, as shown in Table 10-8.601 (Donation of Land).

- (a) This increase shall be in addition to any increase in density mandated by Article 8 (Density Bonus: Calculations), up to a maximum combined mandated density increase of thirty-five (35) percent, if an applicant seeks an increase pursuant to both this article and Article 8 (Density Bonus: Calculations).
- (b) All density calculations resulting in fractional units shall be rounded up to the next whole number.
- (c) Nothing in this article shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.
- (d) An applicant shall be eligible for the increased density bonus described in this article if all of the following conditions are met:
 - (1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application; and,
 - (2) The developable acreage and zoning classification of the land being transferred are sufficient to permit the construction of housing units affordable to very low-income households in an amount not less than ten (10) percent of the number of residential units of the proposed development; and,
 - (3) The transferred land is at least one acre in size or of sufficient size to permit development of a least forty (40) units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure; and,
 - (4) The transferred land shall have all of the permits and approvals, excluding building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the city before the time of transfer; and,
 - (5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Article 8 (Density Bonus: Calculations), which shall be recorded on the property at the time of the transfer; and,
 - (6) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer; and,

- (7) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development; and,
- (8) A proposed source of funding for the very low-income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

TABLE 10-8.601 – Donation of Land	
Percentage Very Low-Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

Article 7. - Density Bonus: Inclusion of a Childcare Facility

10-8.701. When an applicant proposes to construct a housing development that conforms to the requirements of Article 8 (Density Bonus: Calculations) and will include a childcare facility that will be located on the premises of, as part of, or adjacent to, the project, the city shall grant either of the following:

- (a) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility; or,
- (b) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

10-8.702. The city shall require, as a condition of approving the housing development, that the following occur:

- (a) The childcare facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Article 8 (Density Bonus: Calculations).
- (b) Of the children who attend the childcare facility, the children of very low-income households, lower income households, or families of moderate income shall equal a percentage that is equal or greater than the percentage of dwelling units that are required for very low-income households, lower income households, or families of moderate income, pursuant to Article 8 (Density Bonus: Calculations).
- (c) Notwithstanding any requirement of this article, the city shall not be required to provide a density bonus or concession for a childcare facility if it finds, based upon substantial evidence, that the community has adequate childcare facilities.

10-8.703. “Childcare facility,” as used in this article, means a child daycare facility other than a family daycare home, including, but not limited to, infant centers, preschools, extended daycare facilities, and school-age childcare centers.

10-8.704. “Housing development,” as used in this article, means a development project for five (5) or more residential units, including mixed-use developments. For the purposes of this article, “housing development” also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by the city and consists of residential units or unimproved residential lots; and either a project to substantially rehabilitate and convert an existing commercial building to residential use; or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.

10-8.705 For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one (1) development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in

geographic areas of the housing development other than the areas where the units for the lower income households are located.

Article 8. - Density Bonus: Calculations

- (a) An applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of section 10-8.801, 10-8.802, 10-8.803, 10-8.804, 10-8.805, 10-8.806, 10-8.807, or 10-8.808, below.
- (b) All density calculations resulting in fractional units shall be rounded up to the next whole number.
- (c) The granting of a density bonus shall not require, or be interpreted, in and of itself to require a general plan amendment, zone change, or other discretionary approval.
- (d) An applicant shall agree to, and the city shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for an award of a density bonus for fifty-five (55) years or a longer period of time if required by a construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
- (e) Except as specified in Section 10-8.807, rents for the lower income density bonus units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.
- (f) The City shall grant one density bonus, the amount of which as specified in this Article, if the applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this Article, that will contain at least any one of the following:

10-8.801. Low-Income Units. If ten (10) percent of the total units of a housing development for rental or sale to lower income households, as defined in Section 50079.5 of the Health and Safety Code, the density bonus shall be calculated as follows:

TABLE 10-8.801 – Low-Income Units	
Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32

19	33.5
20	35
21	38.75
22	42.5
23	46.25
24	50

10-8.802. Very Low-Income Units. If five (5) percent of the total dwelling units of a housing development are reserved for rent or sale to very low-income households, as defined in Section 50105 of the Health and Safety Code, the density bonus shall be calculated as follows:

TABLE 10-8.802 – Very Low-Income Units	
Percentage Very Low-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

10-8.803. Senior Housing. A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil code shall receive a density bonus equal to twenty (20) percent of the number of senior housing units.

10-8.804. Moderate Income Units (For Purchase). If ten (10) percent of the total dwelling units of a housing development are sold to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

TABLE 10-8.804 – Moderate-Income Units (For Purchase)
--

Percentage Moderate- Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35
41	38.75
42	42.5
43	46.25
44	50

10-8.805. Transitional Foster Youth, Disabled Veterans, or Homeless Persons. If ten (10) percent of the total dwelling units of a housing development are reserved for any of the following groups: (1) transitional foster youth, as defined in Section 66025.9 of the Education Code; (2) disabled veterans, as defined in Section 18541 of the Government Code; or (3) homeless persons, as defined in the Federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), the project shall receive a density bonus equal to twenty (20) percent of the number of units reserved for those groups, provided the following requirements are met:

- (a) The units shall be subject to a recorded affordability restriction of fifty-five (55) years; and,
- (b) The units shall be provided at the same affordability level as very low-income units.

10-8.806. Student Housing Developments. If twenty (20) percent of the total units in a student housing development are reserved for lower income students, the density bonus awarded shall be thirty-five (35) percent of the total number of student housing units, if the student housing development meets all of the following requirements:

- (a) The applicable twenty (20) percent units will be used for lower income students.
- (b) The rent provided in the applicable units of the development for lower income students shall be calculated at thirty (30) percent of sixty-five (65) percent of the area median income for a single room occupancy unit type.
- (c) All units in the development shall be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges.
 - (1) In order to be eligible under this section, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution(s) to occupy all units of the student housing development with students from that institution or institutions.
 - (2) An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in the institution of higher education to fill all of the units in the student housing development.
- (d) The development provides priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (e) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this section.

- (e) For purposes of calculating a density bonus granted pursuant to this section, the term “unit” means one rental bed and its pro rata share of associated common area facilities.
- (f) The units described in this section shall be subject to a recorded affordability restriction of fifty-five (55) years.

10-8.807. Lower Income Units. If one-hundred (100) percent of all the units in a housing development, including total units and density bonus units, but exclusive of a manager’s unit(s) are set aside for lower income households, as defined by Section 50079.5 of the Health and Safety Code; except that up to twenty (20) percent of the units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code, then the following shall apply:

- (a) Except as otherwise provided in clause (b), below, the density bonus shall be 80 percent of the number of units for lower income households.
- (b) If the housing development is located within one-half mile of a major transit stop, the city shall not impose any maximum controls on density.
- (c) If the housing development is located in a very low vehicle travel area, the City shall not impose any maximum controls on density.
- (d) For the purposes of this section, “Very low vehicle travel area” means an urbanized area, as designated by the United States Census Bureau, where the existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita, or city vehicle miles traveled per capita. For purposes of this Section, “area” may include a travel analysis zone, hexagon, or grid. For the purposes of determining “regional vehicle miles traveled per capita” pursuant to this paragraph, a “region” is the entirety of incorporated and unincorporated areas governed by a multicounty or single-county metropolitan planning organization, or the entirety of the incorporated and unincorporated areas of an individual county that is not part of a metropolitan planning organization.
- (e) Rents for all units in the development, including both base and density bonus units, shall be as follows:
 - (1) The rent for at least twenty (20) percent of the units shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.
 - (2) The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.

10-8.808. For Sale Units. An applicant shall agree to ensure, and the city shall ensure, that a for-sale unit that qualified the applicant for the award of a density bonus meets either of the following conditions:

- (a) The unit is initially occupied by a person or family of very low, low, or moderate income, as required, and it is offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and is subject to an equity sharing agreement; or
- (b) The unit is purchased by a qualified nonprofit housing corporation pursuant to a recorded contract that satisfies all of the requirements specified in paragraph ten (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code and that includes all of the following:
 - (1) A repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser.
 - (2) An equity sharing agreement.
 - (3) Affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for lower income housing for at least forty-five (45) years for owner-occupied housing units and will be sold or resold only to persons or families of very low, low, or moderate income as defined in Section 50052.5 of the Health and Safety Code.
- (c) For purposes of this section, a “qualified nonprofit housing corporation” is a nonprofit housing corporation organized pursuant to Section 501 (c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

10-8.809. Equity Sharing Agreements. The city shall enforce an equity sharing agreement required pursuant to Section 10-8.808, unless it is in conflict with the requirements of another public funding source or law. The following shall apply to the equity sharing agreement:

- (a) Upon resale, the seller of the units shall retain the value of any improvements, the down payment, and the seller’s proportionate share of appreciation.
- (b) Except as provided in clause (c), below, the local government shall recapture any initial subsidy, as defined in clause (iii), and its proportionate share of appreciation, as defined in clause (d), below, which amount shall be used within five (5) years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.
- (c) For purposes of this subdivision, the local government’s initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or

mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of resale shall be used as the initial market value.

- (d) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.
- (e) If the unit is purchased or developed by a qualified nonprofit housing corporation pursuant to Section 10-8.808 (b) the local government may enter into a contract with the qualified nonprofit housing corporation under which the qualified nonprofit housing corporation would recapture any initial subsidy and its proportionate share of appreciation if the qualified nonprofit housing corporation is required to use one-hundred (100) percent of the proceeds to promote homeownership for lower income households as defined by Health and Safety Code Section 50079.5 within the jurisdiction of the local government.

SECTION 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). This ordinance is Statutorily Exempt from CEQA pursuant to Section 15282 (h) of the State CEQA Guidelines that exempts the adoption of an ordinance regarding second units in a single-family or multi-family residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code; and the proposed amendments that address state density bonus law is not a project that would have a significant effect on the environment, therefore it is not subject to CEQA pursuant to Section 15061 (b)(3) of the State CEQA Guidelines, the "commonsense exemption," which reasons that CEQA applies only to projects, which have the potential for causing a significant effect on the environment.

SECTION 6. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 7. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of

Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April, 2023, by Councilmember Ricci, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

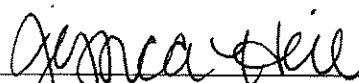
By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 11th day of April, Councilmember Bavaro moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: May 11, 2023

ORDINANCE NO. 3763-C.S.

AN ORDINANCE APPROVING THE MODESTO POLICE DEPARTMENT MILITARY EQUIPMENT USE POLICY (POLICY 710) IN ACCORDANCE WITH AB 481, APPROVING THE PURCHASE OF ADDITIONAL EQUIPMENT THAT QUALIFIES AS “MILITARY EQUIPMENT” IN FISCAL YEAR 2023-2024 AND RESCINDING ORDINANCE NO. 3745-C.S.

WHEREAS, the Modesto Police Department is committed to using the most up-to-date tools and equipment to safeguard the residents of Modesto; and

WHEREAS, Assembly Bill 481 (AB 481), codified at Government Code sections 7070 through 7075 requires a law enforcement agency to obtain approval from the applicable governing body, via adoption of a “military equipment” use policy by ordinance, prior to funding, acquiring, or using military equipment; and

WHEREAS, items deemed to be “military equipment” by AB 481 are used as a component of overall best practices for law enforcement agencies (LEAs) throughout the country; and

WHEREAS, the term “military equipment”, as used in AB 481, in fact does not necessarily indicate equipment that has been used by the military; and

WHEREAS, pursuant to AB 481, items deemed to be “military equipment” include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less lethal 40mm projectile launchers, and flashbangs; and

WHEREAS, these items provide peace officers with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter; and

WHEREAS, this policy outlines each item identified in Government Code section 7070, that is currently owned by MPD and the City of Modesto and also includes the current use and cost of each item; and

WHEREAS, these particular items have been in place prior to the implementation of AB 481 and any future acquisitions of any item deemed to be “military equipment” will require policy update and Council approval; and

WHEREAS, the Modesto City Council approved Ordinance No. 3745-C.S. on May 3, 2022 approving the MPD Military Equipment Use Policy (MPD Policy 710); and

WHEREAS, the Modesto City Council has reviewed the annual military equipment report and found that each type of military equipment identified in that report has complied with the standards for approval; and

WHEREAS, MPD staff has conducted a review of the equipment needs for the department and determined that there is a need to purchase additional items that fall under the Military Equipment Use Policy and these items, their uses and cost are outlined in Attachment B; and

WHEREAS, the Modesto Police Department has held a well-publicized community engagement meeting; and

WHEREAS, AB 481 requires an annual renewal of the MPD Military Equipment Use Policy (MPD Policy 710) by ordinance, therefor staff requests Ordinance No. 3745-C.S. be rescinded with the approval of this ordinance.

NOW, THEREFORE, the City Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS

The City Council of the City of Modesto finds that all of the above Recitals within this Ordinance are true and correct and incorporated herein by reference and makes the following findings:

1. The City Council hereby approves the Modesto Police Department Military Equipment Use Policy 710, attached hereto.

2. The City Council finds that the purchase of the requested military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; the use of the equipment under the military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties; and the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
3. Ordinance No. 3745-C.S. is hereby rescinded.

SECTION 2. SEVERABILITY.

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application any other person or circumstance. The City Council or the City of Modesto hereby declares that it would have adopted each section, sentence, clause, or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of this Ordinance be declared invalid, unenforceable or unconstitutional.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")

The City Council hereby finds that the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) of the State CEQA Guidelines. Specifically, this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because it does not authorize the construction of any new structures or other physical changes to the environment.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION.

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in the Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this Ordinance, the date of its introduction and the places where this ordinance is posted.

**THIS ORDINANCE WAS
RESCINDED BY
MODESTO CITY COUNCIL
ORDINANCE NO. 3782-C.S.
ON JUNE 4, 2024**

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May, 2023, by Councilmember Ricci, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bavaro, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Ricci, Williams, Wright,
Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

APPROVED:


SUE ZWAHLEN, Mayor

ATTEST:

By:


DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

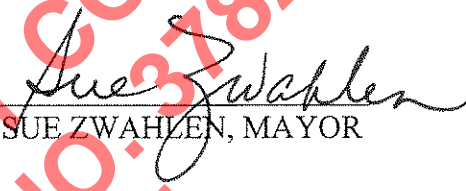
By:


JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 9th day of May, 2023, Councilmember Bavaro moved its final adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Ricci, Williams, Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: Escutia-Braaton

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARÉS-PÉREZ, City Clerk

Effective Date: June 8, 2023

ORDINANCE NO. 3764-C.S.

ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 2795-C.S. ENTITLED “AN ORDINANCE AMENDING SECTION MAP 31-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(487), PROPERTY LOCATED ON THE NORTH SIDE OF CHICAGO AVENUE BETWEEN FRANKETTE AND FLORETTE AVENUES WEST OF PARADISE ROAD (MATTHEWS/FABIAN)”

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF ORDINANCE 2795-C.S. Section 2 of Ordinance 2795-C.S. is hereby amended to read as follows:

“SECTION 2 USES. The following uses shall be permitted in said P-D(487) Zone, if the plan for construction conforms in principle to the approved plan, or if changes are approved by the Secretary of the Planning Commission as required by Section 10-7.108(c) of the Modesto Municipal Code, or by the Planning Commission if any changes not conforming in principle to the approved plan are proposed, as required by Section 10-7.108(a) and (b) of the Modesto Municipal Code:

1. One- or two- story residential dwelling units.”

All other Sections of Ordinance 2795-C.S. shall remain unchanged.

SECTION 2. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 3. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct location in the City; and a notice shall be published one in *The Modesto Bee*, the

official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2023, by Councilmember Williams, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of June, 2023, Councilmember Ricci moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Bavaro, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Alvarez

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: July 07, 2023

ORDINANCE NO. 3765-C.S.

ORDINANCE AMENDING SECTION 2-1.18 AND ADDING SECTION 2-1.28 TO CHAPTER 1 OF TITLE 2 OF THE MODESTO MUNICIPAL CODE REGARDING THE AUDIT COMMITTEE

WHEREAS, Modesto Municipal Code (MMC) Section 2-1.18 currently establishes the Audit Committee as a standing committee of the City Council; and

WHEREAS, on November 8, 2022, Modesto voters adopted Measure G to make various amendments to the City of Modesto’s Charter; and

WHEREAS, Measure G added Section 902.2 to the City of Modesto Charter to govern the Audit Committee; and

WHEREAS, Charter Section 902.2 requires the Audit Committee to be comprised of the Mayor, two members of the City Council, and two members of the public who meet certain requirements; and

WHEREAS, because members of the public will now serve on the Audit Committee, the Audit Committee will no longer be a committee of the City Council and therefore the existing provisions of the Modesto Charter and Municipal Code will not apply; and

WHEREAS, the Council desires to amend the Modesto Municipal Code to establish procedures regarding the Audit Committee, consistent with Charter Section 902.2.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1 AMENDMENT OF CODE. Section 2-1.18 “Standing Committees” of Chapter 1 of Title 2 of the Modesto Municipal Code is amended to read

as follows.

“2-1.18 - Standing Committees.

The standing committees of the Council shall be the Safety and Communities Committee, the Economic Development Committee, the Finance Committee, the Appointments Committee, and the Cannabis Program and Permit Review Committee, each of which committees shall consist of three (3) members of the Council appointed by the Mayor. The responsibility of the Appointments Committee shall be to review and make recommendations for appointments to City Boards, Commissions, and Committees, and such other responsibilities established from time to time by resolution of the City Council.”

SECTION 2 AMENDMENT OF CODE. Section 2-1.28 “Audit Committee,” is hereby added to Chapter 1 of Title 2 of the Modesto Municipal Code to read as follows:

“2-1.28 – Audit Committee.

The Audit Committee of the City of Modesto is established by Section 902.2 of the Modesto Charter.

(a). Duties. The duties of the Audit Committee are those established by Section 902.2 of the Modesto Charter and such other duties as assigned by the City Council.

(b). Membership. Pursuant to Section 902.2 of the Modesto Charter, the Audit shall be comprised of:

(1) The Mayor;

(2) Two members of the City Council, who shall be appointed by the Mayor with the advice and consent of the City Council; and

(3) Two members of the public who are residents of the City of Modesto and shall possess a minimum of two (2) years of experience in financial or performance auditing. Strong consideration shall be given to residents who are Certified Public Accountants. Such members shall be appointed by the City Council, and may be removed by the City Council. Public members of the Audit Committee shall be appointed to a four (4) year term.

(c). Chair & Vice Chair. The Mayor shall serve as the chair of the Audit Committee, and shall designate a member to serve as the vice chair in the absence of the chair.”

SECTION 3. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The proposed Ordinance is exempt from CEQA under the general rule in CEQA Guidelines section 15061(b)(3), that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

SECTION 5. EFFECTIVE DATE

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this Ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2023, by Councilmember Bavaro, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Wright, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 

DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 11th day of July, 2023, Councilmember Williams moved its final adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: August 10, 2023

ORDINANCE NO. 3766-C.S.

ORDINANCE AMENDING SECTIONS OF TITLE 8, CHAPTER 3 OF THE MODESTO MUNICIPAL CODE TO INCREASE THE CITY MANAGER'S AUTHORITY FOR ALL CONTRACTS AND PURCHASE ORDERS FROM \$50,000 TO \$100,000 FOR GOODS/SERVICES; INCREASING THE CITY MANAGER'S AUTHORITY FOR ALL EMERGENCY PROJECTS, PURCHASES AND SERVICES; INCREASING THE FORMAL BIDDING AUTHORITY FROM \$50,000 TO \$100,000; EXPANDING THE DEFINITION OF PROFESSIONAL SERVICES; AND ADDING LANGUAGE TO ALLOW ELECTRONIC BIDDING; AND RESCINDING THE FIRST READING OF THE ORDINANCE APPROVED BY COUNCIL ON JULY 11, 2023

WHEREAS, Title 8, Chapter 3 of the Modesto Municipal Code establishes rules and requirements governing contracting by the City for goods, services, and public works projects; and

WHEREAS, the current dollar thresholds for formal bidding and the City Manager's approval authority have not been increased in over 20 years; and

WHEREAS, the City Council desires to increase the thresholds for formal bidding and the City Manager's approval authority from \$50,000 to \$100,000; and

WHEREAS, the City Council desires to update the City Manager's authority to approve all emergency contracts for goods, services and public works projects; and

WHEREAS, the proposed ordinance would update the requirements of Title 8, Chapter 3 of the Modesto Municipal Code to allow for bids to be submitted electronically; and

WHEREAS, Modesto is a Charter City empowered to exercise full control over its municipal affairs, and subject only to limitations found in the Constitution and the City Charter; and

WHEREAS, the City Council previously introduced and conducted a first

reading of the proposed ordinance on July 11, 2023, but desires to rescind that first reading due to changes to the text of the ordinance; and

WHEREAS, the City Council desires to adopt the proposed ordinance in order to increase the efficiency of the City’s contracting procedures, while continuing to ensure that safeguards are in place to ensure that tax dollars are spent in a prudent, responsible, and economical manner.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1 AMENDMENT OF CODE. Section 8-3.102 “Contracting Authority”, Section 8-3.103 “Definitions”, Section 8-3.203 “Formal Bid Procedures”, Section 8-3.204 “Exceptions to Formal Bidding Requirements”, Section 8-3.402 “Filing of Bids”, and Section 8-3.403 “Opening of Bids”, of Chapter 3 of Title 8 of the Modesto Municipal Code are hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by reference (with additions underlined and deletions in ~~striketrough~~).

SECTION 2 RESCISSION OF FIRST READING. The City Council hereby rescinds the first reading of this Ordinance approved by the City Council on July 11, 2023.

SECTION 3. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City

Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The proposed Ordinance is exempt from CEQA under the general rule in CEQA Guidelines section 15061(b)(3), that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

SECTION 5. EFFECTIVE DATE

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this Ordinance is posted.

.....Section Break (Next Page).....

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September 2023 by Councilmember Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

BY: 
DIANE NAYARES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing Ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 10th day of October 2023, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the Ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: November 9, 2023

EXHIBIT A

additions underlined and deletions in ~~striketrough~~

8-3.102 Contracting Authority.

The City Manager may approve and authorize all contracts and purchase orders involving an expenditure of City funds in the total amount of one hundred thousand dollars (\$100,000.00) ~~fifty thousand dollars (\$50,000.00)~~ or less. Except as noted below, no contract involving an expenditure in excess of one hundred thousand dollars (\$100,000.00) ~~fifty thousand dollars (\$50,000.00)~~ may be authorized, approved or executed without City Council approval. The one hundred thousand dollars (\$100,000.00) ~~fifty thousand dollars (\$50,000.00)~~ limit set forth in the preceding sentences does not apply to the following:

- (a) Contracts for public works projects consisting of the improvement or modification of traffic signals or signal systems including those street improvements which are incidental to or related to the improvement or modification of the traffic signal. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of two hundred fifty thousand dollars (\$250,000.00) or less.
- (b) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation or modification of any facilities funded by a Mello-Roos Community Facilities District and involving an expenditure of district facility taxes in the amount of three million dollars (\$3,000,000.00) or less. The District Administrator may approve and authorize all contracts for such projects.
- (c) Contracts for public works projects consisting of the maintenance, repair, replacement, and improvement of existing water lines. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of three hundred thousand dollars (\$300,000.00) or less.
- (d) Contracts for public works projects consisting of the installation and establishment of water service connections associated with new development. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of seventy-five thousand dollars (\$75,000.00) or less.
- (e) Contracts for public works projects, purchases, and services ~~consisting of repairs~~ determined by the City Manager to be of urgent necessity for the preservation of life, health, or property. The City Manager may approve and authorize all contracts for such projects ~~two hundred thousand dollars (\$200,000.00)~~. Within ten (10) days of the

authorization for any such work, the City Manager shall report to the City Council the circumstances of the emergency.

- (f) Contracts for public works projects consisting of the construction, improvement, repair, expansion, renovation, or modification of any facilities associated with development and installed by the developer provided:
 - (1) That an agreement is approved by the City Council prior to commencement of construction of the works.
 - (2) The agreement clearly defines the work to be done and the basis for reimbursement.
 - (3) That total reimbursement required by the agreement is less than four hundred thousand dollars (\$400,000.00) in City funds.

~~(g) Contracts for public works projects done by City forces in the amount of one hundred thousand dollars (\$100,000.00) or less.~~

- (g) Contracts for public works projects consisting of the installation, construction, and improvement, of the Coffee-Claratina Dual Use Neighborhood Park/Storm Basin in the City of Modesto. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of one million five hundred thousand dollars (\$1,500,000.00) or less.
- (h) Contracts for public works projects consisting of the installation and construction of any upgrade and/or rebuild of the City's institutional network (INET). The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of four million two hundred thousand dollars (\$4,200,000.00) or less.
- (i) Contracts for public works projects consisting of those improvements to the South Modesto water system identified in that certain technical memorandum prepared by West Yost and Associates dated October 17, 2005, as amended on November 7, 2005, for the benefit of the Galas Brothers Unit II Project bounded by Hatch Road, Estrella Way, Ironside Drive, Salazar Circle and Monticello Lane in the City of Modesto and any incidental work thereto. The City Manager may approve and authorize all contracts for this project involving a total expenditure of City funds not to exceed two million five hundred thousand dollars (\$2,500,000.00) or less.
- (j) Contracts for public works contracts consisting of the purchase, installation and replacement of water meters including an automated water meter reading (AMR) system and infrastructure work in conjunction with the system-wide water metering program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of five million dollars (\$5,000,000.00) or less annually.
- (k) Contracts for paving and landscaping work to be done by City forces at the City's traffic operations facility located at 117 Elm Street in the amount of one hundred thousand dollars (\$100,000.00) or less.
- (l) Contracts for public works projects consisting of the design, purchase and installation of water lines and associated equipment used to blend down contaminants at water well

- sites in the amount of one million five hundred thousand dollars (\$1,500,000.00) per project.
- (m) Contracts for public works projects consisting of additions and/or expansion of facilities and structures at John Thurman Field not to exceed two million four hundred thousand dollars (\$2,400,000.00) per project.
 - (n) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the McHenry Avenue Water System Upgrade Project in the amount of four hundred fifty thousand dollars (\$450,000.00) or less.
 - (o) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the 9th Street Water Main Replacement Project in the amount of five hundred eighty-five thousand dollars (\$585,000.00) or less.
 - (p) Contracts for public works projects consisting of bus stop improvements at various locations on the Modesto Area Express route system. The City Manager may approve all contracts for such projects in the amount of six hundred seventy-five thousand dollars (\$675,000.00) or less annually.
 - (q) Contracts for work done by City forces consisting of roadway and intersection improvements on Oakdale Road between Claratina Avenue and Mable Avenue in the amount of one hundred forty thousand dollars (\$140,000.00) or less.
 - (r) Contracts for work done by City forces to repair, replace and improve water lines and associated appurtenances for the Del Rio Water Main Replacement Project in the amount of three hundred ninety thousand dollars (\$390,000.00) or less.
 - (s) Contracts for public works projects consisting of energy efficient improvements to City facilities that are funded through the American Recovery and Reinvestment Act (ARRA) of 2009, Energy Efficiency and Conservation Block Grant (EECBG) Program. The City Manager may approve and authorize all contracts for such projects involving an expenditure of City funds in the amount of six hundred thousand dollars (\$600,000.00) or less.
 - (t) Contracts for public works to purchase and construct a police officer memorial and associated appurtenances at the Modesto Police Headquarters in the amount of one hundred twenty-five thousand dollars (\$125,000.00) or less.
 - (u) Contracts for public works projects consisting of the design, purchase and installation of water mains and associated appurtenances used to upgrade the water system in the Airport Neighborhood service area in the amount of one million four hundred five thousand one hundred sixty-six dollars (\$1,405,166.00) or less.
 - (v) Contracts for public works projects consisting of the design, purchase and installation of street lights and associated appurtenances used to upgrade the street lighting throughout the City in the amount of four million dollars (\$4,000,000.00) or less.
 - (w) Contracts for work done by City forces in the design, purchase and installation of Tenth Street improvements between I and J Streets consisting of irrigation, storm drain, stamped concrete, street trees, planters, and electrical improvements and associated appurtenances. Improvements shall be consistent in concept with Resolution 2014-172 and the staff report presented to the City Council at its regular Council meeting of June 9, 2015.
 - (x) Contracts for work done by City forces, consisting of the design, purchase and installation of flashing beacons and associated appurtenances used to construct flashing

beacons throughout the City in the amount of seven hundred seventy thousand dollars (\$770,000.00) or less.

- (y) Contracts for the construction, improvement, installation, or repair of water facilities associated with the North Valley Regional Recycled Water Program, involving an expenditure of City funds in excess of one million dollars (\$1,000,000.00). Such projects may be procured under the design-build methodology authorized under Public Contract Code section 22160, et seq., as may be amended from time to time.
- (z) Contracts for the construction, improvement, installation, or repair of water facilities associated with the Water Corporation Yard, involving an expenditure of City funds in excess of one million dollars (\$1,000,000.00). Such projects may be procured under the design-build methodology authorized under Public Contract Code section 22160, et seq., as may be amended from time to time.

~~Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y) and (z) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of Articles 2 and 4 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(k) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.~~

- (aa) Contracts for the construction, improvement, installation, or repair of hardware, software and system integration associated with the Utilities Department SCADA System (water, wastewater and storm drain), involving an expenditure of City funds in excess of one million dollars (\$1,000,000.00). Such projects may be procured under the design-build methodology authorized under Public Contract Code section 22160, et seq., as may be amended from time to time.

~~Any contract for a public works project which may be approved as set forth in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y) (z) and (aa) above of this section and authorized by the City Manager, District Administrator, or other authorized person, is not subject to the public bidding requirements of articles 2 and 4 of this chapter or of Section 1307 of the Modesto City Charter. This section is adopted pursuant to Sections 801(k) and 1307 of the Modesto City Charter. The City Manager may delegate his or her authority in a manner consistent with the procedures established by this chapter. As set forth in Section 2-2.03 of this Code, all contract documents that require City Council approval shall be approved as to form by the City Attorney or the City Attorney's authorized representative before presentation to the City Council.~~

8-3.103 Definitions.

The definitions below are applicable throughout this Code:

- (a) Professional services shall mean accounting, appraisal, architectural, auditing, engineering, environmental, information system services, land surveying, construction management, legal services, financial planning, medical or planning services or any service which is ~~similarly~~ professional, scientific, expert, or technical in nature.
- (b) Public Works. Except as set forth in Section 8-3.102, every project exceeding one hundred thousand dollars (\$100,000.00)~~fifty thousand dollars (\$50,000.00)~~ for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds and streets (exclusive of projects for resurfacing, maintenance and repair of streets, or any park or parks playground project otherwise subject to the public bidding requirements of this chapter that involve any donated labor and/or material) shall be deemed a public works project and be subject to the provisions set forth in Article 4 of this chapter commencing with Section 8-3.401.
- (c) Purchases. Means a contract to obtain supplies, nonprofessional services, materials and/or equipment in furtherance of City needs and purposes.

8-3.203 Formal Bid Procedures.

This formal bid procedure shall apply to all purchases whose total maximum cost to City exceeds one hundred thousand dollars (\$100,000.00)~~fifty thousand dollars (\$50,000.00)~~, and shall include at least the following:

- (a) Preliminary approval by the City Manager of a staff proposed bid package, including all project, material, supply and/or equipment specifications, requirements and all other matters reasonably required of bidders, including, but not limited to, all contractual terms proposed. The total maximum cost to the City if a bid is accepted by the Purchasing Manager, and a contract is executed by the City Manager or designee, shall be set forth.
- (b) Notice Inviting Bids. Notice inviting bids shall be published in the official newspaper by one (1) or more insertions, the first of which shall be at least seven (7) days before the time of bid opening, for public works projects only, in accordance with the provisions of Section 1307 of the City Charter. All other bids for which formal bid procedures are required shall be noticed in a manner or manners appearing to the Purchasing Manager to assure as broad a vendor response as reasonably possible. The required notice shall include a general description of the supplies, materials, equipment, and contractual services to be purchased, state where bid blanks and specifications may be secured and the time and place for opening bids.

Wherever feasible, the Purchasing Manager shall send notices inviting bids to prospective vendors and contractors. It shall be the responsibility of the Purchasing Manager to encourage as wide a response as possible from prospective vendors or contractors.

- (c) Bid Deposits. Where required by the City Charter and when not so required but deemed necessary or desirable by the Purchasing Manager, all bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than the amount specified in the notice inviting bids or in the specifications referred to therein, or if no amount is specified by the notice inviting bids, then in an amount not less than ten (10) percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, provide supplies, materials, equipment, or contractual services according to specifications within the time specified in the notice inviting bids or specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the City, and shall be collected and paid into its General Fund, and all bonds forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

All bids not submitted with the required deposit shall be rejected. Unsuccessful bidders shall be entitled to the return of deposits when such have been required after acceptance of the contract by the selected bidder.

- (d) Sealed Bids. Physical Bids shall be sealed, and shall be identified as bids on the envelope.; If the Finance Director authorizes, pursuant to Section 8-3.402, the submission of bids through electronic means, electronic bids shall be submitted in a manner that keeps the bid confidential until opened by the City. All bids shall be submitted, whether in person or electronically, at the place and no later than the time stated in the public notice inviting bids. e, and Except for bids for services, bids shall be opened at a public meeting at the time and place stated in the public notice in the manner authorized by this Chapter. Bids received after the stated time shall not be accepted, whether or not a bid is late through any fault of the late bidder, and shall be returned to the bidder unopened.
- (e) Council May Reject Bids. The Council shall have the authority to accept or reject any or all bids, or to waive any informalities or minor irregularities in a bid. The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the purchase in question may be made without a formal bid procedure and, after the adoption of a resolution to this effect by at least five (5) affirmative votes of the Council, may proceed to have said purchase made in the manner stated without further observation of the provisions of this section. No

Council action is required to reject bids or proposals other than for public works projects.

- (f) Lowest Responsive and Responsible Bidder. For non-public works contracts, in addition to price in determining the "lowest responsive and responsible bidder", consideration will be given to quality and performance of the commodity to be purchased, or service provided by the seller. Criteria for determining low bid shall include, but not be limited to, the following:
- (1) The ability, capacity and skill of the bidder to provide the supplies, materials, equipment or contractual services as required.
 - (2) The ability of the bidder to provide the supplies, materials, equipment or contractual services within the time specified.
 - (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - (4) The quality or performance of previous purchases from said bidder.
 - (5) The ability of the bidder to provide future maintenance, repair parts and services for the use of the commodity purchased.
 - (6) Local vendor as defined in Section 8-3.206(c).
- (g) Faithful Performance Bond. When the specifications so provide, the successful bidder shall furnish surety in the form of certified or cashier's check, corporate surety bond or savings and loan certificate for faithful performance of the contract.

8-3.204 Exceptions to Formal Bidding Requirements.

Except as otherwise provided by this chapter or when directed by the City Manager, all purchases involving an expenditure of City funds in the amount of one hundred thousand dollars (\$100,000.00) ~~fifty thousand dollars (\$50,000.00)~~ or less, shall be purchased, when feasible and when in the best interest of the City, in the open market by letter inquiry, informal solicitation, or telephone or facsimile solicitations, with or without newspaper advertisement, and without observation of prescribed formal bid procedures.

Open market purchases, whenever possible and practicable, shall be based on at least three (3) competitive quotations (letter inquiries and/or telephone solicitations), and shall be awarded to the person, firm or corporation submitting the lowest responsible quotation. In determining the lowest quotation, the City shall do so on the basis defined in Section 8-3.203 for establishing the lowest responsible bid used in formal bid purchases.

The Purchasing Manager shall keep a record of all open market orders and the quotations submitted in competition thereof. Such records shall be open to public inspection during business hours. Records of said open market orders or purchases may be disposed of by the Purchasing Manager following two (2) years from the date of the purchase.

All purchases in excess of one hundred thousand dollars (\$100,000.00) ~~fifty thousand dollars (\$50,000.00)~~, or when directed by the City Manager for any purchase of one hundred thousand dollars (\$100,000.00) ~~fifty thousand dollars (\$50,000.00)~~ or less, shall follow formal bid procedures, except for the following, which shall be exempt from the bid requirement:

- (a) Contracts for professional services as defined in Section 8-3.103, if competitive quotations or proposals have been sought informally from at least three (3) qualified entities;
- (b) Where the Purchasing Agency's requirements can be met solely by a single article or process;
- (c) Where the Purchasing Manager, in his or her discretion, determines that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent or emergency circumstances;
- (d) Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality. Such alternatives may include, but are not limited to, a "two-step" procurement process or a procurement based solely on a technical evaluation.
- (e) Where the Purchasing Manager, in his or her discretion, determines that the term of an existing agreement should be extended for a period of no greater than one (1) year to allow the City to complete a formal bidding process for a long term agreement or to avoid disruption to City projects or services.
- (f) When the Purchasing Manager, in his or her discretion, determines that it is appropriate to amend the services or goods provided under an existing agreement to include additional similar goods or services, of limited quantity or scope, in order to increase efficiency and avoid delays or disruptions to City projects or services.

8-3.402 Filing of Bids.

All bids for public works projects shall be sealed and filed with the City Clerk no later than the opening time specified in the Notice of Bids. The City Clerk shall be custodian of such bids and shall keep all things pertaining thereto confidential until they are opened and declared. The City may accept bids through electronic means if the Finance Director determines that such electronic process complies with all requirement of this Code and applicable state and federal laws. The City shall continue to accept physical

copies of bids even if an option is available to bidders to file bids through electronic means.

8-3.403 Opening of Bids.

All bids shall be publicly opened and declared at the time and place fixed in the notice inviting bids. Bid openings may occur in person or through electronic means, including, but not limited to, a process that automatically publishes bid results on a website identified in the notice inviting bids. Thereafter, the bids shall be tabulated and analyzed by the head of the department supervising the proposed work, who shall submit them, together with his/her recommendations thereon, to the City Manager. The City Manager shall review the bids and submit them to the Council, along with his/her recommendations at the next regular meeting of the Council.

5389843.1

ORDINANCE NO. 3767-C.S.

ORDINANCE AMENDING THE MODESTO MUNICIPAL CODE TO REPEAL ARTICLE 18, “REGULATION OF CRUISING,” IN ITS ENTIRETY, FROM CHAPTER 2, “VEHICLES AND TRAFFIC REGULATIONS,” OF TITLE 3, “PUBLIC SAFETY,” RELATING TO THE CITY’S CRUISING BAN

WHEREAS, Modesto is the birthplace of George Lucas and the inspiration for his classic film “American Graffiti;” and

WHEREAS, released in 1973, the American Graffiti movie captured the first big weekend of cruising after school got out for the summer, which turned into the iconic “Graffiti Night” in Modesto; and

WHEREAS, Graffiti Night became an annual cruising tradition in Modesto, bringing thousands of people and their cars into the City every year starting in the mid-to-late 1970s and continuing into the early 1990s; and

WHEREAS, as the notoriety of cruising in Modesto grew, so did Graffiti Night and the number of people who were drawn to the City from all over the United States; and

WHEREAS, starting in the mid-to-late 1980s, this traditionally fun and celebratory weekend began to experience an increasing amount of violence, assaults, and shootings; and

WHEREAS, on March 27, 1990, Council adopted Ordinance No. 2706, which added Article 18, “Regulation of Cruising,” to Chapter 2, “Vehicles and Traffic Regulations” of Title 3, “Public Safety” of the Modesto Municipal Code for the prohibition of “cruising” within the City; and

WHEREAS, even though the City of Modesto enacted a cruising ban over 20 years ago, the City has consistently recognized the historical significance it had in promoting the love of classic cars and cruising; and

WHEREAS, over the past year, cities across California, including Modesto, have engaged in dialogue with community members and organizations regarding the removal of local cruising bans that were enacted decades prior to keep communities safe; and

WHEREAS, these meaningful conversations led to the organization of two pilot cruising events in the downtown area of Modesto. Both permitted events were organized by a locally organized group, the Modesto Cruising Council, in collaboration with the Modesto Police Department; and

WHEREAS, both events were well organized, free of any violence, and the Police Department did not experience an increase in calls for service as a result of the events; and

WHEREAS, a new State Bill (AB 436) has also been introduced in the Assembly, proposing to repeal bans and regulations on car cruising, legalize cruising across California; and

WHEREAS, the State Legislature has previously encouraged local jurisdictions to recognize the cultural significance of cruising in California and several jurisdictions across the state have already abolished its ban on car cruising; and

WHEREAS, the proposed Ordinance includes the complete repeal of the cruising ban, which contains the prohibition on cruising within the City.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS.

The City Council of the City of Modesto finds that all of the above recitals and within this Ordinance are true and correct and incorporated herein by reference.

SECTION 2. AMENDMENT- REPEAL OF CRUISING BAN.

That Article 18, “Regulation of Cruising,” from Chapter 2, “Vehicles and Traffic Regulations,” of Title 3, “Public Safety,” of the Modesto Municipal Code, is hereby repealed in its entirety.

SECTION 3. SEVERABILITY.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”) under the general rule in CEQA -Guidelines section 15061(b)(3) that CEQA only applies to projects that have the potential to cause a significant effect on the environment.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION.

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this Ordinance, the date of its introduction and the places where this Ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2023, by Councilmember Ricci, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and ordered printed and published by the following vote:

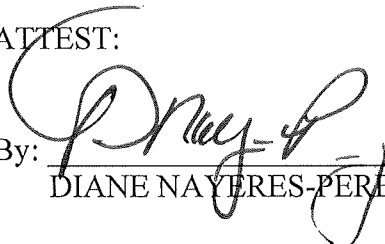
AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:


By: _____
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:


By: _____
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

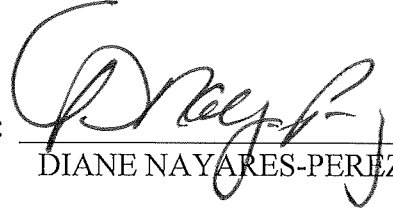
The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of August, 2023, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED:


SUE ZWAHLEN, MAYOR

ATTEST:


DIANE NAYARES-PEREZ, City Clerk

Effective Date: September 7, 2023

ORDINANCE NO. 3768-C.S.

ORDINANCE AMENDING THE MODESTO MUNICIPAL CODE TO ADD ARTICLE 21, TITLED “SIDESHOWS, STREET RACES, AND RECKLESS DRIVING EXHIBITION”, TO CHAPTER 2, “VEHICLES AND TRAFFIC REGULATIONS,” TO TITLE 3 “PUBLIC SAFETY”, TO ESTABLISH REGULATIONS AND PENALTIES RELATED TO SIDESHOWS, STREET RACES, AND RECKLESS DRIVING EXHIBITION

WHEREAS, streets, highways and intersections within the City of Modesto have been the site of continuing and escalating illegal street racing and exhibitions of speed over the past several years and are commonly referred to as “sideshows” or “street takeovers”; and

WHEREAS, such street racing and exhibitions of speed threaten the health and safety of the public, interfere with pedestrian and vehicular traffic and create a public nuisance; and

WHEREAS, these illegal motor vehicle speed contests and exhibitions of speed create an environment where persons engaged in automobile performance demonstrations and other activities that include dangerous driving behavior for the entertainment of participants and spectators as well as reckless driving when fleeing law enforcement; and

WHEREAS, street sideshows are planned and coordinated by participants and spectators using the internet, cell phones, social media, police scanners, and other electronic devices that allow them to move from one location to another to avoid detection and prosecution by local law enforcement. Street takeovers and sideshows can also damage the streets, highways, and intersections in the City, making the expenditure of public funds necessary to repair such damages; and

WHEREAS, while the California Vehicle Code has assisted the Police Department enforce against participants involved in illegal street takeovers and sideshows, the need for additional enforcement options have been identified to further protect the City and its residents; and

WHEREAS, the Modesto Police Department requests the City Council amend the Modesto Municipal Code to make it unlawful to engage in certain activities within the city limits, setting penalties for violations, and outlining the seizure and forfeiture of declared nuisance vehicles; and

WHEREAS, vehicles used during street takeovers, sideshows, street races, and reckless driving exhibitions are a nuisance and may be forfeited to the City of Modesto to prevent the needless loss of life and property damage associated with illegal motor vehicle speed contests and exhibitions of speed; and

WHEREAS, the City Council finds it is necessary and appropriate to take steps to protect public health and safety of pedestrians and motorists in, about, or upon public streets and highways so as to minimize any dangerous conditions caused by illegal motor vehicle speed contests and exhibitions of speed.

NOW, THEREFORE, the City Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS.

The City Council of the City of Modesto finds that all of the above recitals are true and correct and incorporated herein by reference.

SECTION 2. AMENDMENT.

The City Council of the City of Modesto hereby amends the Modesto Municipal Code by adding Article 21, “Sideshows, Street Races, and Reckless Driving Exhibition,” to Chapter 2, “Vehicles and Traffic Regulations,” to Title 3 “Public Safety”, of the Modesto Municipal Code, to read as follows:

“ARTICLE 21 - SIDESHOWS, STREET RACES, AND RECKLESS DRIVING EXHIBITIONS

3-2.2101 – Definitions.

For purposes of this Article, the following definitions shall apply:

- (a) “Offstreet Parking Facility” is defined in subdivision (c) of California Vehicle Code Section 12500, as may be amended.
- (b) “Participant” means any individual driving a vehicle which is found to have engaged in a Reckless Driving Exhibition, as referred to in California Vehicle Code Section 23103.
- (c) “Passenger” means any individual riding in a vehicle which is found to have engaged in a Reckless Driving Exhibition, Street Race, or Sideshow.
- (d) “Preparations” for any Sideshow, Street Race, or Reckless Driving Exhibition include, but are not limited to, any of the following acts done for the purpose of a Side Show, Street Race, or Reckless Driving Exhibition:
 - (1) One (1) or more motor vehicles and persons have arrived at a location on a public street or highway or in an Offstreet Parking Facility for the purpose of participating in or observing a Sideshow, Street Race, or Reckless Driving Exhibition;
 - (2) One (1) or more persons have gathered on, or adjacent to, a public street or highway for the purpose of participating in or observing a Sideshow, Street Race, or Reckless Driving Exhibition;
 - (3) One (1) or more persons have gathered in an Offstreet Parking Facility for the purpose of participating in or observing a Sideshow, Street Race, or Reckless Driving Exhibition;
 - (4) One (1) or more persons have impeded the free public use of a public street, highway, or Offstreet Parking Facility by acts, words, or physical barriers for the purpose of participating in or observing a Sideshow, Street Race, or Reckless Driving Exhibition;
 - (5) One (1) or more motor vehicles have lined up on a public street, highway, or Offstreet Parking Facility with motors running for the purpose of participating in or observing a Sideshow, Street Race, or Reckless Driving Exhibition;
 - (6) One (1) or more drivers are revving a motor vehicle’s engine or causing the motor vehicle’s tires to spin; or
 - (7) A person is standing or sitting in a location to act as a race starter.
- (e) “Present” means a Spectator is within two hundred (200) feet of the location of the Sideshow, Street Race, or Reckless Driving Exhibition, or within two hundred (200) feet of the site of the Preparations for either of these activities.
- (f) “Reckless Driving Exhibition” shall mean any exhibition of reckless driving referred to in California Vehicle Code Section 23103, as may be amended.

- (g) “Scene” shall mean the location of the Sideshow, Street Race, or Reckless Driving Exhibition or the location of the Preparations for the Sideshow, Street Race, or Reckless Driving Exhibition.
- (h) “Sideshow” shall mean an event in which two or more persons perform motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, on a highway, street, or Offstreet parking facility.
- (i) “Spectator“ shall mean any person who is present at a Sideshow, Street Race, or Reckless Driving Exhibition, or the site of the Preparations for any of these activities, for the purpose of viewing, observing, watching, or witnessing the event as it progresses. A “Spectator“ includes any person at the location of the event without regard to the means by which the person arrived.
- (j) “Street Race“ means any motor vehicle speed contest or motor vehicle exhibition of speed referred to in subdivisions (a) and (c) of California Vehicle Code Section 23109, as may be amended.

3-2.2102 – Sideshows, Street Races, and Reckless Driving Exhibitions prohibited on public streets and Offstreet Parking Facilities.

- (a) It shall be unlawful for any person to:
 - (1) Knowingly participate as a driver at a Sideshow, Street Race, or Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility; or
 - (2) Be knowingly present as a Passenger at a Sideshow, Street Race or Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.

3-2.2103 – Spectators prohibited at Sideshows, Street Races, and Reckless Exhibitions of Speed.

- (a) It shall be unlawful for any person to:
 - (1) Be knowingly present as a Spectator at a Sideshow, Street Race, or Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.
 - (2) Be knowingly present as a Spectator where Preparations are being made for a Sideshow, Street Race, or Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.
- (b) Nothing in this Article prohibits peace officers, medical professionals, firefighters, or their agents who are acting in the course of their official duties from being Spectators at a

Sideshow, Street Race, or Reckless Driving Exhibition or Spectators at the location of Preparations for any of these activities.

3-2.2104 - Relevant circumstances to prove a violation.

- (a) To prove a violation of this Article, admissible evidence may include, but is not limited to, any of the following:
 - (1) That the person charged has previously participated in or been a Spectator at a Sideshow, Street Race or Reckless Driving Exhibition;
 - (2) That the person charged has previously aided and abetted a Sideshow, Street Race, or Reckless Driving Exhibition;
 - (3) That the person charged has previously attended a Sideshow, Street Race, or Reckless Driving Exhibition; or
 - (4) That the person charged was previously present at a location where Preparations were being made for a Sideshow, Street Race, or Reckless Driving Exhibition, or where a Sideshow, Street Race, or Reckless Driving Exhibition was in progress.
 - (5) Evidence of these prior acts may be admissible, to the fullest extent permissible by law, to show the opportunity, intent, plan, knowledge, identity, or the absence of mistake or accident, or propensity of the defendant to be present at or attend a Sideshow, Street Race, or Reckless Driving Exhibition if the prior act or acts occurred within three (3) years of the presently charged offense. These prior acts may always be admissible to show knowledge on the part of the defendant that a Sideshow, Street Race, or Reckless Driving Exhibition was taking place.

- (b) In addition to the circumstances set out in subsection (a) above, to prove a violation of this Article, admissible evidence may also include, but is not limited to, any of the following:
 - (1) The time of day;
 - (2) The nature and description of the Scene, including the number and configuration of traffic lanes;
 - (3) The number of people at the Scene;
 - (4) The location of the person charged in relation to any person or group of persons present at the Scene;
 - (5) The number and descriptions of motor vehicles at the Scene;
 - (6) That the motor vehicles at the Scene have been modified or altered to increase power, handling, or visual appeal; and/or
 - (7) That the person charged drove or was transported to the Scene.

3-2.2105 – Promoting, Organizing, or Facilitating Spectators to gather at Sideshows, Street Races, and Reckless Driving Exhibitions prohibited.

- (a) It shall be unlawful for any person to knowingly encourage, promote, instigate, assist, facilitate, aide, or abet the gathering of persons as Spectators at a Sideshow, Street Race

or Reckless Driving Exhibition conducted on a public street or highway, or Offstreet Parking facility.

- (b) It shall be unlawful for any person to knowingly encourage, promote, instigate, assist, facilitate, aide, or abet the gathering of persons as Spectators where Preparations are being made for a Sideshow, Street Race, or Reckless Driving Exhibition conducted on a public street or highway, or in an Offstreet Parking Facility.

3-2.2106 – Penalties for Violations.

- (a) A violation of any of the provisions of Section 3-2.2103 may result in the issuance of an administrative citation, and the City may, at its discretion, seek an administrative fine of up to two thousand five hundred dollars (\$2,500.00).
- (b) A violation of any of the provisions of Section 3-2.2105 may result in the issuance of an administrative citation, and the City may, at its discretion, seek an administrative fine of up to three thousand dollars (\$3,000.00).
- (c) A violation of any of the provisions of Section 3-2.2102 may result in the issuance of an administrative citation, and the City may, at its discretion, seek an administrative fine of up to three thousand five hundred dollars (\$3,500.00).
- (d) A violation of any of the provisions of Sections 3-2.2102, 3-2103, or 3-2.2105 may also be punishable as a misdemeanor, or as provided under any remedy available at law.

3-2.2107 - Seizure and Forfeiture of Nuisance Vehicles.

- (a) A motor vehicle shall be declared a nuisance and may be seized and subject to forfeiture under this Article if:
 - (1) It is used in a Sideshow; and
 - (2) It is driven by the registered owner of the vehicle at the time of the violation, or
 - (3) The registered owner is a passenger in the vehicle at the time of the violation; or
 - (4) It is driven by a member of the registered owner’s immediate family at the time of the violation, or a member of the registered owner’s immediate family is a passenger in the vehicle at the time of the violation; or
 - (5) The driver or a passenger lives at the same address as the registered owner at the time of the violation; or
 - (6) The driver or a passenger in the vehicle at the time of the violation has prior contact in the vehicle, as determined by law enforcement records.

3-2.2108 - Seizure of Vehicles Subject to Forfeiture.

- (a) A peace officer may seize a vehicle subject to forfeiture under this Article upon the issuance of an order by a court having jurisdiction over the vehicle. Seizure without a

court order may be made if there is probable cause to believe that the vehicle was used in violation of this Article.

- (b) A peace officer seizing a vehicle under this Article shall complete a receipt in accordance with Penal Code Section 1412 and deliver it to the person from whose possession the vehicle was seized.
- (c) An immediate investigation shall be made by the City Manager or his or her designee making the seizure as to any potential claimant to a vehicle whose right, title, interest, or lien is of record in the Department of Motor Vehicles of this or any other state or appropriate federal agency. If the City Manager or his or her designee finds that any person, other than the registered owner, is the legal owner, and the ownership did not arise subsequent to the date and time of arrest or seizure of the vehicle or notification of the forfeiture proceedings, the City Manager or his or her designee shall, within ten (10) days of the vehicle's seizure, send a notice of seizure to the legal owner at his or her address appearing on the records of the Department of Motor Vehicles of this or any other state or any appropriate federal agency.
- (d) The City Manager or his or her designee making the seizure of the vehicle shall provide any potential claimants discovered as a result of the investigation set out in subsection (c) above with the opportunity for a post-seizure hearing to determine the validity of the seizure. The post-seizure hearing shall be conducted within two (2) business days of the request. A third-party administrator shall be contracted with the City and shall hold the post-hearing proceedings. Failure of either a registered or legal owner to request a hearing as provided in this Section or to attend a scheduled hearing shall satisfy the post-seizure hearing requirement.

3-2.2109 - Notice of Seizure.

The notice of seizure shall include the following:

- (a) A description of the vehicle.
- (b) The date and place of seizure.
- (c) The violation of law alleged with respect to the forfeiture of the vehicle.
- (d) The instructions for filing and serving a claim with the City Clerk pursuant to Section 3-2.2108 and time limits for filing a claim.
- (e) A vehicle seized pursuant to this Article, where appropriate, may be held as evidence in any proceeding brought by the City Manager or his or her designee, City Attorney or District Attorney.

3-2.2110 - Forfeiture and Notice of Intended Forfeiture of Vehicle.

- (a) The City Manager or his or her designee may, pursuant to this Section, order the forfeiture of vehicles seized under this Article.
- (b) If the City Manager or his or her designee determines that the factual circumstances warrant forfeiture of the vehicle described in Section 3-2.2107, the City Manager or his or her designee shall serve a notice of intended forfeiture upon any person who has an interest in the seized vehicle. The notice shall be served as soon as practicable but, in any event, within thirty (30) days of the seizure of the vehicle subject to forfeiture.
- (c) The notice of intended forfeiture shall be served as follows:
 - (1) The notice of intended forfeiture shall be served by personal delivery or certified mail, return receipt requested, upon any person who has an interest in the seized vehicle as determined pursuant to Section 3-2.2108(c).
 - (2) In the event that the person entitled to service refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished by any one of the following methods:
 - a. By leaving a copy during usual business hours at the recipient's business with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy to the recipient where the copy was left.
 - b. By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household, and thereafter mailing by first-class mail a copy to the recipient at the address where the copy was left.
 - (3) If the person entitled to service lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.
 - (4) If the person entitled to notice cannot be located, or service cannot be made as set forth in this subsection, service may be made by publication in a newspaper of general circulation. Service shall be deemed sufficient when it is accomplished pursuant to Government Code section 6063.

3-2.2111 - Claims Opposing Forfeiture.

- (a) A person claiming an interest in the vehicle seized pursuant to the Article shall, within ten (10) days from the date of receipt of the notice of intended forfeiture or within thirty (30) calendar days from the date of first publication of the notice of intended forfeiture, file with the Superior Court of the county in which the vehicle was seized, a Claim Opposing Forfeiture, verified in accordance with section 446 of the Code of Civil Procedure, stating his or her interest in the vehicle. An endorsed copy of the claim shall be served upon the City Clerk within ten (10) days of the filing of the claim.
- (b) If a verified claim is timely filed, the City Attorney or District Attorney shall institute a forfeiture proceeding by filing a petition for forfeiture with the Superior Court of

Stanislaus County within thirty (30) days of the receipt of the claim and by setting the matter for a hearing on a day not less than thirty (30) days therefrom. If a petition for forfeiture and opposition is filed with the court, claimant will receive a filed endorsed copy of the claim; and the petition for forfeiture with the date, time, and location of the court hearing.

- (c) The provisions of the Code of Civil Procedure shall apply to proceedings under this Article unless otherwise inconsistent with the provisions or procedures set forth in this Article. However, in proceedings under this Article, there shall be no joinder of actions, or coordination of actions, except for forfeiture proceedings or cross-complaints, and the issues shall be limited strictly to the questions related to this Article.
- (d) With respect to vehicles described in Section 3-2.2107 for which forfeiture is sought and as to which forfeiture is contested, the City shall have the burden of proving by a preponderance of the evidence that the vehicle was used as set forth in Section 3-2.2107. Trial shall be before the court or jury.
- (e) Upon proof that the vehicle was used for any of the purposes set forth in Section 3-2.2107, the court shall declare the vehicle a nuisance and order title and ownership of the vehicle transferred to the City of Modesto and disposal of the vehicle as set forth in this Article.
- (f) If no claims are timely filed in response to the notice issued pursuant to subsection (b), the City Attorney or the District Attorney shall prepare a written declaration of forfeiture of the vehicle to the City and dispose of the property in accordance with this Article. A written declaration of forfeiture signed by the City Attorney or District Attorney under this Section shall be deemed to provide good and sufficient title to the forfeited property. The City Attorney or District Attorney ordering forfeiture pursuant to this section shall provide a copy of the declaration of forfeiture to any person who received notice of the intended forfeiture proceedings.

3-2.2112 - Sale of Forfeited Vehicle After Declaration of Forfeiture.

Any vehicle forfeited pursuant to this Article shall be sold once a declaration of forfeiture is issued by the City Attorney or an order of forfeiture is issued by a court, as the case may be, pursuant to the provisions of this Article. The City shall offer the forfeited vehicle for sale at public auction within sixty (60) days of receiving title to the vehicle. Low-value vehicles shall be disposed of under existing procedures.

3-2.2113 - Disposition of Low-Value Vehicles.

If the City Manager or his or her designee determines that the vehicle to be forfeited and sold pursuant to this Article is of so little value that it cannot readily be sold to the public generally, the vehicle shall be conveyed to a licensed dismantler or donated to a charitable organization.

License plates shall be removed from any vehicle conveyed to a dismantler pursuant to this Section.

3-2.2114 - Distribution of Sale Proceeds.

The Police Department shall establish a policy for the distribution of proceeds prior to the sale of any forfeited vehicle pursuant to Section 3-2.2112.

3-2.2115 - Stolen Vehicles.

No vehicle shall be sold pursuant to this Article if the City Manager or his or her designee determines the vehicle to have been stolen. In this event, the vehicle may be claimed by the registered owner at any time after impoundment, providing the vehicle registration is current, and the registered owner has no outstanding traffic violations or parking penalties on his or her driving record or on the registration record of any vehicle registered to the person. If the identity of the legal and registered owners of the vehicle cannot be reasonably ascertained, the vehicle may be sold.

3-2.2116 - Towing and Storage Fees.

- (a) The registered owner of the vehicle is responsible for the costs incurred for towing and storage.
- (b) Notwithstanding subdivision (a), the City is responsible for the costs incurred for towing and storage if it is determined that the driver at the time of impoundment did not violate this Article and did not give rise to the nuisance.

3-2.2117 - Recovery of Monetary Loss.

Nothing in this Article shall preclude an owner of a vehicle who suffers a monetary loss from the forfeiture of a vehicle under this Section from recovering the amount of the actual monetary loss from the person(s) who committed the act giving rise to forfeiture under this Article.

SECTION 2. SEVERABILITY.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The proposed Ordinance is exempt from the California Environmental Quality Act (“CEQA”) under the general rule in CEQA -Guidelines section 15061(b)(3) that CEQA only applies to projects that have the potential to cause a significant effect on the environment.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION.


At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this Ordinance, the date of its introduction and the places where this Ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July, 2023, by Councilmember Escutia-Braaton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Williams, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

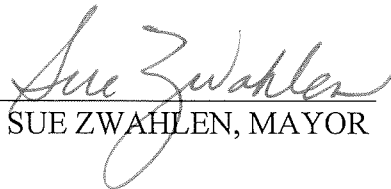
APPROVED AS TO FORM:


By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 8th day of August, 2023, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: September 7, 2023

ORDINANCE NO. 3769-C.S.

ORDINANCE AMENDING SECTION 12-03-09 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE PROPERTIES LOCATED AT 3431 AND 3419 MILLBROOK AVENUE FROM SPECIFIC PLAN-HOLDING ZONE, SP-H, TO SPECIFIC PLAN ZONE, SP

WHEREAS, a verified application for an amendment to Section 12-03-09 of the Zoning Map was filed by Fred Miller on July 22, 2022, to rezone from Specific Plan-Holding Zone, SP-H, to Specific Plan Zone, SP, on properties located at 3431 and 3419 Millbrook Avenue; and

WHEREAS, after a public hearing held on June 5, 2023, the Planning Commission found the following: 1) that the requested zone change will not be detrimental to the public health, safety or welfare because the rezone from Specific Plan-Holding Zone, SP-H, to Specific Plan Zone, SP, of a 4.98-acre portion of Precise Plan Area No. 6 (Subarea A) of the Village One Specific Plan, will allow for the project site to develop to the minimum 0.50-acre parcel size consistent with the requirements of the Zoning Code and the Specific Plan; 2) the requested zone change will result in an orderly planned use of land because the rezone applies only to the 4.98-acre project site. The remaining area of Precise Plan Area No. 6 (Subarea A) will stay in the Specific Plan-Holding Zone, SP-H, and cannot be subdivided until the zone is changed and a Tentative Subdivision Map is approved; and, 3) the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and the Village One Specific plan because the Vesting Tentative Subdivision Map, which proposes to subdivide two (2) parcels, within Precise Plan 6 (Subarea A), totaling 4.98-acres into nine (9) single family residential parcels, each a minimum of 0.50 acres, meets

the requirements of the Zoning Code and the Village One Specific Plan with respect to lot size; and

WHEREAS, by Resolution No. 2023-16, adopted on June 5, 2023, the Planning Commission recommended to the Council that the application of Fred Miller to amend Section 12-03-09 of the Zoning Map to rezone the hereinafter described property from Specific Plan-Holding Zone, SP-H, to Specific Plan Zone, SP be approved.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. After a public hearing held on August 8, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because the rezoning of a 4.98-acre portion of Precise Plan Area No. 6 (Subarea A) from Specific Plan-Holding Zone (SP-H) to Specific Plan (SP) will allow for the development of a maximum of nine (9) single family residential parcels, each being a minimum of 0.50 acres, which is consistent with the requirements of the Zoning Code and the Village One Specific Plan.
2. The requested change will result in an orderly planned use of land because This rezone applies only to the 4.98-acre project site, which is proposed to be subdivided. If additional subdivisions are requested within Precise Plan Area No. 6 (Subarea A), property owners must request a zoning change from Specific Plan-Holding Zone (SP-H) to Specific Plan (SP).
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the zone change will facilitate the development of a 4.98-acre portion of Subarea A, in Precise Plan Area No. 6 of the Village One Specific Plan. Nine (9) single family residential parcels will be created with a subsequent Tentative Subdivision Map. Each parcel will be a minimum of 0.50 acres, which is consistent with the requirements of the Zoning Code and

the Village One Specific Plan. No other property will be subdivided as part of this action.

SECTION 2. ZONING CHANGE. Section 12-03-09 of the Zoning Map is hereby amended to rezone the following described property from Specific Plan-Holding (SP-H) zone to Specific Plan (SP):

SP-H to SP

All of Parcel "b" as shown and designated on that certain parcel map filed in the office of the County Recorder of Stanislaus County, California on February 3, 1978, in Volume 26 of Parcel Maps, at page 68, and being a division of Parcel 4 of that certain Parcel Map filed in Volume 1 of Parcel Maps at Page 138, located in the southwest corner of Section 12, Township 3 south, range 9 east, mount diablo base and meridian.

Together with Parcel "a", as shown on that certain parcel map filed in book 26 of parcel maps, at Page 68, Stanislaus County records.

Together with all that portion of abandoned 50.00 foot wide Esta Avenue, as described in abandonment resolution no. 2001-577, filed as doc- 2001-0139479, official records, Stanislaus County records, lying easterly of and coincident with the easterly line of Parcel "a", as shown on that certain parcel map filed in book 28 of Parcel Maps, at Page 68, Stanislaus County records, more particularly described as follows:

Beginning at the southeast corner of said Parcel "a", thence along the easterly line of said Parcel 3, as shown on that certain parcel map filed in book 15 of parcel maps, at page 85, Stanislaus County records, thence along the easterly prolongation of the southerly line of said Parcel 3, north 89°48'18" east 13.52 feet to a point on the easterly line of said abandoned portion of Esta Avenue, said point being on a nontangent curve concave to the northeast, having a radius of 428.00 feet, from which the radius point of said curve bears north 82°51'51" east; thence southeasterly, along the arc of said curve, through a central angle of 10°33'19", an arc distance of 78.85 feet to the east line of the northwest quarter of the southwest quarter of said section 12; thence along said line, south 00°19'45" east 123.05 feet to a point of intersection with the easterly prolongation of the southerly line of aforesaid Parcel "a", thence along said line, south 89°48'18" west 30.00 feet to the point of beginning.

Also, together with all that portion of abandoned 50.00 foot wide Esta Avenue, as described in Abandonment Resolution No. 2001-577, filed as Doc-2001-0139479, official records, Stanislaus County records, lying the northeast quarter of the southwest quarter of Section 12, Township 3 South, Range 9 East, Mount Diablo

Base and Meridian, more particularly described as follows:

Commencing at the Southeast corner of Parcel "a", as shown on that, certain Parcel Map filed in Book 26 of Parcel Maps, at Page 68, Stanislaus County Records; thence

along the easterly prolongation of the southerly, line of said Parcel "a", North $89^{\circ}48'18''$ East 30.00 feet to the west line of said Northeast quarter of the Southwest quarter of Section 12; thence along said line, North $00^{\circ}19'45''$ West 2.58 feet to the point of beginning of this description; thence continue along said line, North $00^{\circ}19'45''$ West 120.41 feet to a point on the easterly line of said abandoned portion of Esta Avenue said point being on a non-tangent curve concave to the Northeast, having a radius of 428.00 feet; thence Southeasterly, along the arc of said curve concave to the Northeast, having a radius of 428.00 feet, whose radius point bears north $72^{\circ}18'32''$ East, through a central angle of $7^{\circ}26'50''$, an arc distance of 55.83 feet to the Northerly corner of Lot "h", as shown on that certain Map of Atherton Place, filed in Book 39 of Maps, at Page 59, Stanislaus County records; thence along the Westerly line of said Lot "h", South $00^{\circ}19'45''$ East $6\frac{1}{2}$ feet to a point on a curve concave to the Northwest, having a radius of 100.00 feet, whose radius point bears North $25^{\circ}22'52''$ West; thence Southwesterly, along the arc of said curve, through a central angle of $12^{\circ}08'26''$, an arc distance of 21.19 feet to the point of beginning.

Together with all that portion of Lot "h", as shown, on that certain Map of Atherton place, filed in Book 39 of Maps, at Page 59, Stanislaus County records, lying in the Northeast quarter of Southwest quarter Section 12, Township 3 South, Range 9 East, Mount Diablo base and meridian, described as follows:

Beginning at the most Northerly corner of said Lot "h", said point being on the, Southwesterly right-of-way line of 56-foot wide Millbrook Avenue, thence along the Easterly line of said Parcel "h" also being the Westerly right-of-way line of said Millbrook Avenue, Southeasterly along the arc of a curve concave to the Northeast, whose radius point bears north $64^{\circ}51'42''$ east, having a radius of 428.00 feet, through a central angle of $7^{\circ}07'35''$, an arc distance of 53.23 feet, thence on a non-tangent line, South $57^{\circ}44'07''$ West 17.35 feet to the beginning of a curve concave to the Northwest, having a radius of 100.00 feet; thence Southwesterly, along the arc of said curve, through a central angle of $6^{\circ}53'01''$, an arc distance of 12.01 feet to the Westerly line of said Lot "h", thence along said Westerly line, North $00^{\circ}19'45''$ West 61.72 feet to the point of beginning.

EXCEPTING THEREFROM all that portion of abandoned 50.00 foot wide Esta Avenue, as described in Abandonment Resolution No. 2001-577, filed as Doc-2001-0139479, official records, Stanislaus County Records, being a portion of the Northwest quarter of the Southwest quarter of Section 12, Township 3 South, Range 9 East, Mount Diablo base and meridian, more particularly described as follows:

Commencing at the Southeast corner of Parcel "a", as shown on that certain Parcel Map filed in Book 26 of Parcel Maps at Page 68, Stanislaus County Records; thence along the Easterly prolongation of the Southerly line of said Parcel "a", North 99°48'18" East 7.42 feet to the beginning of a curve concave to the northwest, having a radius of 100.00 feet, and the point of beginning of this description, thence Northeasterly along the arc of said curve, through a central angle of 13°02'44", an arc distance of 22.77 feet to the east line of the northwest quarter of the southwest quarter of said Section 12, thence along said line, south 00°19' 45", east 2.58 feet to a point of intersection with the easterly prolongation, of the southerly line of said Parcel "a"; thence along last said line, south 99°48'18" west 22.58 feet to the point of beginning.

Subject to all rights of way, easements, and other encumbrances of record.

APN: 085-064-016 and 085-064-017.

SECTION 3. ZONING MAP. Section 12-03-09 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 4. USES AS PERMITTED BY SPECIFIC PLAN. The allowable uses within this Zone shall be as permitted by the Village One Specific Plan, Precise Plan No. 6 Sub-Area A, as referenced in Section III Page 20 of the Specific Plan.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2023, by Councilmember Williams, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Wright, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

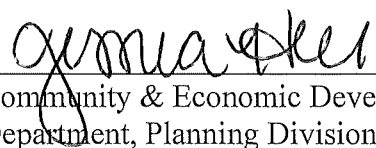
By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

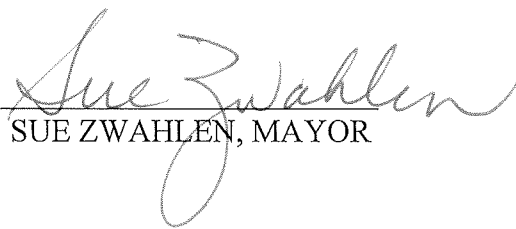
By: 
Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of August, 2023, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

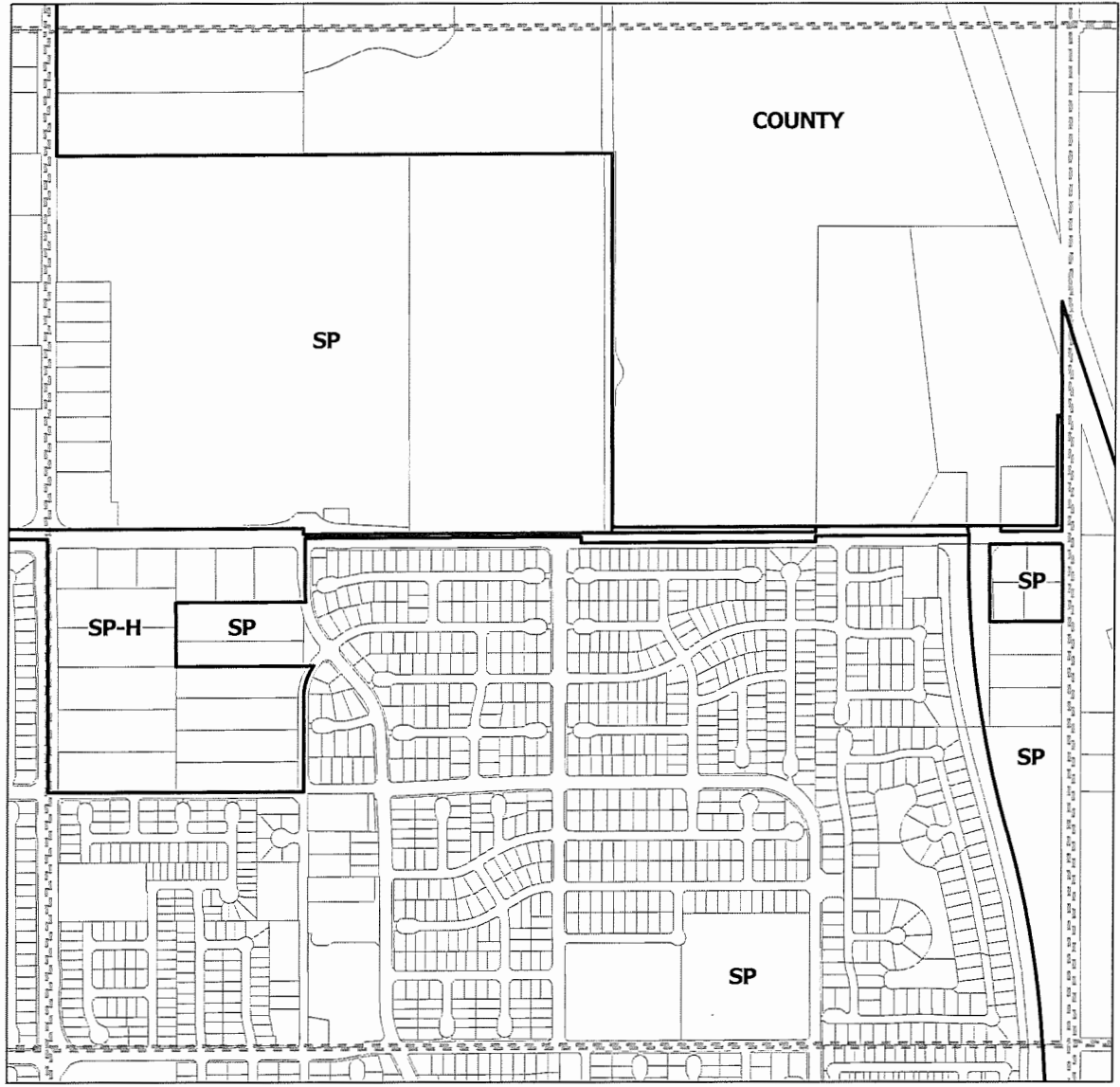
APPROVED:


SUE ZWAHLEN, MAYOR

ATTEST:


DIANE NAYARES-PÉREZ, City Clerk

Effective Date: September 21, 2023



1 Inch = 700 feet
Ord. 3769-C.S.
Eff: 9/21/23

ZONING MAP OF THE CITY OF MODESTO

12-3-9

ORDINANCE NO. 3770-C.S.

ORDINANCE AMENDING SECTIONS OF ARTICLE 6, “VACANT AND BOARDED BUILDINGS” OF TITLE 9 “BUILDING REGULATIONS”, CHAPTER 9, “PROPERTY MAINTENANCE CODE,” OF THE MODESTO MUNICIPAL CODE, TO ENHANCE MAINTENANCE AND SECURITY OF VACANT BUILDINGS

WHEREAS, vacant and boarded buildings are a major cause and source of crime and blight in both residential and nonresidential neighborhoods; and

WHEREAS, vacant buildings which are boarded, unkempt, and kept vacant for long periods of time discourage economic development and harm property values; and

WHEREAS, increasing and enforcing maintenance and signage requirements for vacant and boarded buildings may improve conditions of blight caused by vacant and boarded buildings; and

WHEREAS, the City has determined that it is in the public interest and welfare to amend Sections of Article 6 of Title 9, Chapter 9, of the Modesto Municipal Code.

NOW, THEREFORE, the City Council of the City of Modesto does ordain as follows:

SECTION 1. FINDINGS

The City Council of the City of Modesto finds that all of the above Recitals and within this Ordinance are true and correct and incorporated herein by reference.

SECTION 2. AMENDMENT OF MUNICIPAL CODE

Sections 9-9.606, 9-9.607 and 9-9.608 of Title 9, Chapter 9, Article 6 of the City of Modesto Municipal Code is hereby amended to read as follows:

9-9.606 - Vacant Building Registration Requirement and Process

(a) Every owner or responsible party of a vacant building must register the building with the City of Modesto Planning Division within sixty (60) days of the building becoming vacant. If the City determines that a building shows evidence of vacancy for at least sixty (60) days, it may be deemed vacant.

(b) Every owner or responsible party seeking to register a vacant building must submit to the Planning Division, a complete, written application on a form provided by the City, which shall contain the following contents:

(1) The name and address of each owner, responsible party, and property management company, that are responsible for any security, maintenance, marketing, or sales or rentals, of the vacant building. The applicant shall designate a twenty-four (24) hour contact among the parties listed on the application.

(2) A maintenance and security plan describing how the applicant will meet all requirements of Modesto Municipal Code section 9-9.607(d).

(c) Any registration of a vacant building that is approved by the City is valid for up to one (1) year, and shall be required to be renewed annually for as long as the building subject to the registration remains vacant.

(d) Any change in ownership, responsible party, or property management company responsible for a vacant building, must be reported to the Planning Division no later than ten (10) days after the change.

9-9.607 Boarded or Vacant Building; Time Period Maintenance.

No responsible party shall allow a building to stand vacant for more than sixty (60) days and shall register the building with the City in accordance with Modesto Municipal Code section 9-9.606, unless one of the following applies:

- (a) The building is the subject of an active building permit and the owner is progressing diligently to repair the premises for occupancy;
- (b) The building meets all applicable codes in existence at either the time of its construction or at the time of its alteration or modification and is actively being offered for sale, lease, or rent;
- (c) The building is being maintained in a safe and orderly manner and does not contribute to blight conditions;
- (d) Maintenance in a safe and orderly manner shall include:
 - (1) Maintenance of any landscaping and plant materials in good condition,
 - (2) Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition,
 - (3) Regular removal of all exterior trash, debris and graffiti, and
 - (4) Maintenance of the building in continuing compliance with all applicable codes and regulations.
 - (5) Posting of a sign no smaller than 18 by 24 inches on the front of the exterior building or structure so it is legible from the public-right-of-way, with the following information:
 - (i) name and twenty-four-hour contact telephone number and address of the owner, responsible party, or property management company; and

- (ii) the statement that “THIS PROPERTY IS MANAGED BY” with the appropriate name inserted and “TO REPORT PROBLEMS OR CONCERNS CALL” with the twenty-four-hour telephone number listed. The sign shall be constructed and printed with weather resistant materials.
- (6) Installing and maintaining in good working order, a security system such that breaches of any doors or windows, or the presence of intruders, alert the property owner, a property manager, and/or a security company, upon immediate notice of intruders and imminent dangers, including but not limited to fires, can be abated.
 - (7) Installing and maintaining in good working order, a smoke detector that upon being triggered by the presence of smoke, fire, or excess heat, alerts the property owner, responsible party, twenty-four hour contract as designated in the application for vacant building registration, and the Modesto Fire Department, so that imminent dangers, including but not limited to fires, can be abated.
 - (8) Posting a minimum of one “No Trespassing” sign in accordance with the Modesto Police Department sign and size requirements. Signs must be displayed along property frontage and visible to the public. The sign must be no smaller than 17 by 22 inches in size, with lettering no smaller than 1 inch in height.
 - (9) Conducting sufficient inspections so that the presence of intruders or illegal and / or dangerous activities in the building may be discovered, so that appropriate remedial action can be taken to terminate the illegal and / or dangerous activities.

9-9.608 - Vacant Building Monitoring Fee.

(a) Fee Imposed. There is hereby imposed upon every owner of a vacant building an annual vacant building monitoring fee in an amount to be set by resolution of the City Council. The fee shall not exceed the estimated reasonable cost of monitoring the vacant building. The fee shall be payable as to any building, residential or nonresidential, which:

- (1) Is boarded up by voluntary action of the owner or as the result of enforcement activities by the City; or
- (2) Is vacant for more than sixty (60) days for any reason.

(b) Fee Waiver. The vacant building monitoring fee may be waived by the Director upon a showing by the owner that:

- (1) The owner has obtained a building permit and is progressing diligently to repair the premises for occupancy;
- (2) The building meets all applicable codes and is actively being offered for sale, lease or rent; or
- (3) Imposition of the fee would impose a substantial economic hardship on the owner or would hinder the rehabilitation of the building.

(c) Procedure.

(1) The vacant building monitoring fee shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the County Assessor.

(2) Any owner billed may apply for a waiver on the grounds set forth in subsection (b) of this section by submitting a written statement of the grounds for the waiver, and the owner's daytime telephone number, to the Director within thirty (30) days after the billing is mailed to the owner. The Director shall review the written statement and may contact the owner to discuss the application for waiver. The Director shall prepare a written decision which shall be mailed to the owner.

(3) Any owner who disagrees with the decision of the Director may submit a written notice of appeal to the Director within thirty (30) days of receipt of the decision. Failure to timely appeal the decision of the Director relating to a denial of a waiver constitutes a waiver of all rights to an administrative hearing and determination of the matter subject only to review pursuant to Section 1094.5 of the California Code of Civil Procedure.

(4) If the fee is not paid within sixty (60) days after billing, or within sixty (60) days after the decision of the Director or after the decision upon appeal by the owner becomes final, the fee may be specially assessed against the property involved and made a personal obligation of the owner. If the fee is to be specially assessed against the property, a hearing officer, as designated by the City Manager, shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

(5) The designated hearing officer may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee.

SECTION 3. SEVERABILITY.

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application any other person or circumstance. The City Council or the City of Modesto hereby declares that it would have adopted each section, sentence, clause, or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of this Ordinance be declared invalid, unenforceable or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION.


At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in the Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this Ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2023, by Councilmember Ricci, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 22nd day of August, 2023, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen
NOES: Councilmembers: None
ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: September 21, 2023

ORDINANCE NO. 3771-C.S.

AN ORDINANCE AMENDING SECTIONS 10-2.125, 10-2.133, AND 10-2.194; ADDING SECTION 10-2.149.1, TO CHAPTER 2 (DEFINITIONS), ARTICLE 1 (DEFINITIONS) OF TITLE 10; AMENDING SECTION 10-3.205 OF CHAPTER 3 (LAND USE REGULATIONS), ARTICLE 2 (SPECIFIC LAND USE REGULATIONS); AND ADDING SECTION 10-3.208.1 TO CHAPTER 3 (LAND USE REGULATIONS), ARTICLE 2 (SPECIFIC LAND USE REGULATIONS) OF TITLE 10

WHEREAS, housing production in State of California has not kept pace with demand, resulting in the lack of housing and in particular lack of affordable housing; and

WHEREAS, changes to state laws that became effective on January 1, 2020, and January 1, 2023, required cities to identify zoning designations where emergency shelters and low barrier navigation centers may be allowed without a discretionary permit and subject only to specific objective standards to ensure an adequate supply of temporary housing in the City; and

WHEREAS, this code amendment will update the City of Modesto's Zoning Regulations to be consistent with State law regarding emergency shelters and low barrier navigation centers; and

WHEREAS, this code amendment is necessary at this time as the city undertakes an update of both the General Plan and the Housing Element; and

WHEREAS, a public hearing was held by the Planning Commission on October 16, 2023, in the Chambers, 1010 Tenth Street, Modesto, California at which hearing evidence both oral and documentary were received and considered; and

WHEREAS, the proposed code amendment that addresses emergency shelters and low barrier navigation centers is not a project that would have a significant effect on the environment, therefore it is not subject to CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines, the “commonsense exemption,” because CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

WHEREAS, after a public hearing held on October 16, 2023, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because providing more temporary housing will benefit the community’s unsheltered residents; and

WHEREAS, the requested code amendment will result in an orderly planned use of land because the amended regulations for emergency shelters and low barrier navigation centers will clarify where and how these temporary shelters may be built and operate; and

WHEREAS, the requested code amendment is in accordance with the community’s objectives as set forth in the General Plan and any applicable specific plan(s) because the proposed code amendment will provide for additional sites with zoning allowing for the development of emergency shelters (sufficient to meet the community’s need) and low barrier navigation centers consistent with the goals of the Housing Element, a portion of the General Plan; and

WHEREAS, by Resolution No. 2023-27 adopted on October 16, 2023, the Planning Commission recommended to the Council that the proposed amendments to Title 10 of the Modesto Municipal Code including the amendment of Chapter 2

(Definitions), Article 1 (Definitions), Sections 10-2.125, 10-2.133, and 10-2.194; the addition of Section 10-2.149.1 to Chapter 2 (Definitions), Article 1 (Definitions); the amendment of Chapter 3 (Land Use Regulations), Article 2 (Specific Land Use Regulations), Section 10-3.205; and the addition of Section 10-3.208.1 to Chapter 3 (Land Use Regulations), Article 2 (Specific Land Use Regulations) to the Modesto Municipal Code, be approved; and

WHEREAS, this Code amendment was set for a public hearing on November 7, 2023, before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed amendment of Chapter 2 (Definitions), Article 1 (Definitions), Sections 10-2.125, 10-2.133, and 10-2.194; the addition of Section 10-2.149.1 to Chapter 2 (Definitions), Article 1 (Definitions); the amendment of Chapter 3 (land use regulations), Article 2 (specific land use regulations), Section 10-3.205; and the addition of Section 10-3.208.1 to Chapter 3 (Land Use Regulations), Article 2 (Specific Land Use Regulations) of Title 10 of the Modesto Municipal Code; and

WHEREAS, evidence, both written and oral, was duly presented and considered by the City Council at the aforesaid public hearing; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred; and

WHEREAS, after a public hearing held on November 7, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because providing for the provision of emergency shelters, including low barrier navigation centers, to house homeless persons in compliance with building standards, will benefit the community.
2. The requested change will result in an orderly planned use of land because the amended regulations for emergency shelters and low barrier navigation centers will clarify where and how these temporary shelters may be built and operate.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments will provide for additional sites with appropriate zoning for the development of emergency shelters (sufficient to meet the community's need) and low barrier navigation centers consistent with the goals of the Housing Element, a portion of the General Plan.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 2, "Definitions," Article 1, "Definitions," Sections 10-2.125, 10-2.133 and 10-2.194 are hereby amended to read as follows:

10-2.125 – Emergency Shelter.

Any structure or facility, the primary purpose of which is to provide housing or temporary shelter, with minimal supportive services for homeless persons that is limited to occupancy of six (6) months or less by homeless persons. No individual or household may be denied emergency shelter because of an inability to pay. This definition includes other interim interventions, including but not limited to a navigation center, bridge housing, and respite or recuperative care.

10-2.133 - Homeless Shelter.

A Homeless Shelter means any of the following:

- (a) any facility, the primary purpose of which is to provide a temporary shelter for the homeless in general or for specific populations of the homeless and which does not require occupants to sign leases or occupancy agreements; or

- (b) An Emergency Shelter as defined in Section 10-2.125; or
- (c) A Navigation Center is a Housing First, low-barrier, service-enriched shelter focused on moving homeless individuals and families into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

10-2.194 - Transitional Housing.

Housing that provides supportive services for up to two (2) years that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development’s requirements for subsidized housing for low- income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.

SECTION 2. ADDITION OF CODE. Title 10 of the Modesto Municipal Code, Chapter 2, “Definitions,” Article 1, “Definitions,” Sections 10-2.149.1 is hereby added to read as follows:

10-2.149.1 – Low Barrier Navigation Center.

A Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. “Low Barrier” means best practices to reduce barriers to entry, and may include, but is not limited to, the following:

- (1) The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- (2) Pets.

(3) The storage of possessions.

(4) Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

SECTION 3. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, “Land Use Regulations,” Article 1, “Permitted and Conditional Land Uses,”

Section 10-3.101, Table 3.1-1 “Permitted and Conditional Land Uses,” Commercial Section is hereby amended to read as follows:

Land Use	Zoning Districts												Notes
	R-1	R-2	R-3	MU-P	MU-H	P-O	C-1	C-2	C-3	C-M	M-1	M-2	
COMMERCIAL													
Communication													
Broadcasting Studio (radio or television)	-	-	-			-	-	P	P	P	P	P	
Radio or Television Transmitter	-	-	-			-	C	C	C	P	P	P	
Wireless Telecommunication Facilities													See Chapter 3, Article 4
Entertainment													
Adult Entertainment Business	-	-	-			-	-	-	-	-	P	P	See Chapter 3, Article 3
Carnival (entertainment permit required)	-	-	-			-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4
Circus (entertainment permit required)	-	-	-			-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4
Entertainment Establishment (entertainment permit required)	-	-	-			-	-	P	P	P	P	P	See Title 4, Chapter 1, Article 4
Theater, Motion Picture (indoor)	-	-	-			-	-	P	P	P	P	P	
Commercial Cannabis Uses													See Chapter 3, Article 7
Commercial Marijuana Activity	-	-				-	-	-	-	-	-	-	See Section 10-3.210
Lodging													
Motel, Hotel	-	-	-			P	P	P	P	P	P	P	
Bed and Breakfast (2 rooms for lodging, owner resides on site)	P	P	P			-	-	-	-	-	-	-	
Office													
General	-	-	-			P	P	P	P	P	P	P	See Section 10-2.159
Medical	-	-	-			P	P	P	P	P	P	P	See Section 10-2.160
Outdoor Sales and Activities													
Auction Yard	-	-	-			-	-	-	-	-	P	P	
Commercial													
Certified Farmers' Market	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 a
Food and Drink Stands	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 b

Fund Raisers (nonprofit organizations)	P	P	P			P	P	P	P	P	P	P	See Section 10-3.212 c
Outdoor Dining Areas	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 d
Outdoor Display, major	-	-	-			-	-	P	P	P	P	P	See Section 10-3.212 e (2)
Outdoor Display, minor	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 e (1)
Outdoor Sales (products customarily sold indoor)	-	-	-			-	P	P	P	P	P	P	See Section 10-3.212 f
Promotions	P	P	P			P	P	P	P	P	P	P	See Section 10-3.212 g
Seasonal Sales (fireworks, pumpkins, Christmas trees)	P	P	P			P	P	P	P	P	P	P	See Section 10-3.212 h
Mobile Food Facilities	-	-	-			-	P	P	P	P	P	P	See Sections 10-3.210 and 10-3.212 i
Flea Market - Indoor	-	-	-			-	-	P	P	P	P	P	
Flea Market - Outdoor	-	-	-			-	-	-	-	-	P	P	
Industrial	-	-	-			-	-	-	-	P	P	P	See Section 10-3.213
Recreational													
Campground, Recreation Vehicle Overnight Park	-	-	-			-	-	-	C	P	P	P	
Health Club	-	-	-			-	P	P	P	P	P	P	
Private Club, Lodge, Social Club, Cultural Center	-	-	-			-	P	P	P	P	P	P	
Recreation Facility - Indoor	-	-	-			-	C	P	P	P	P	P	See Section 10-2.165
Recreation Facility - Outdoor	-	-	-			-	-	C	C	P	P	P	See Section 10-2.166
Recycling (Collection)													
Recycling Facility, Large (more than 500 SF area)	-	-	-			-	-	C	C	P	P	P	
Recycling Facility, Small (500 SF max area)	-	-	-			-	P	P	P	P	P	P	See Section 10-3.215 b
Unattended Containers no more than 50 SF area (in residential zones w/ school, church, or government use)	P	P	P			-	-	-	-	-	-	-	See Section 10-3.215 a
Unattended Containers/Reverse Vending Machine no more than 50 SF area (w/ permitted or conditional use)	-	-	-			P	P	P	P	P	P	P	
Restaurants													
Banquet Hall	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Bar, Cocktail Lounge, Tavern	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Restaurants (w/ alcohol)	-	-	-			-	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.203
Restaurants (w/o alcohol)	-	-	-			-	P	P	P	P	P	P	
Retail													
General Retail	-	-	-			-	-	P	P	P	P	P	See Section 10-2.174
Neighborhood Retail	-	-	-			-	P	P	P	P	P	P	See Section 10-2.175
Services													
General Services													
Ambulance Service	-	-	-			-	-	P	P	P	P	P	
Armored Car Service	-	-	-			-	-	P	P	P	P	P	
Business Services	-	-	-			P	P	P	P	P	P	P	See Section 10-2.178
Car Wash	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222

Equipment Rental (indoors)	-	-	-			-	-	P	P	P	P	P	
Exterminating Service	-	-	-			-	-	P	P	P	P	P	
Fortune Telling	-	-	-			-	-	P	P	P	P	P	
Funeral Home (includes cremation)	-	-	-			-	-	C	C	P	P	P	
Janitor Service	-	-	-			-	-	P	P	P	P	P	
Kennel	-	-	-			-	-	C	C	P	P	P	
Laboratory (research and testing)	-	-	-			-	-	P	P	P	P	P	
Package Delivery Service	-	-	-			-	-	-	C	P	P	P	
Personal Services	-	-	-			P	P	P	P	P	P	P	See Section 10-2.179
Security Company	-	-	-			-	-	P	P	P	P	P	
Self Storage	-	-	-			-	-	-	C	P	P	P	
Sign Painting Shop	-	-	-			-	-	P	P	P	P	P	
Stone Monument	-	-	-			-	C	C	C	P	P	P	
Taxicab Service	-	-	-			-	-	P	P	P	P	P	
Taxidermist Shop	-	-	-			-	-	P	P	P	P	P	
Towing Services (no impound yard)	-	-	-			-	-	P	P	P	P	P	
Trade Services	-	-	-			-	-	P	P	P	P	P	See Section 10-2.182
Repair Services													
Major Repair	-	-	-			-	-	P	P	P	P	P	See Section 10-2.180
Minor Repair	-	-	-			-	P	P	P	P	P	P	See Section 10-2.181
Social Assistance Services													
Assisted Living Facility	C	C	P			P	P	P	P	-	-	-	
Adult Day Care (3 or fewer clients, 1 unit per lot)	P	P	P			-	-	-	-	-	-	-	Residential dwelling. Clients plus family members
Adult Day Care (4 or more clients, 1 unit per lot)	C	C	C			-	-	-	-	-	-	-	
Adult Day Care (3 or fewer clients, 2 units per lot)	C	C	C			-	-	-	-	-	-	-	
Adult Day Care	C	C	C			C	P	P	P	P	P	P	Commercial facility
Day Care Home - Small Family (6 or fewer children)	P	P	P			-	-	-	-	-	-	-	See Section 10-3.204 a 1
Day Care Home - Large Family (7-14 children)	P	P	P			-	-	-	-	-	-	-	See Section 10-3.204 a 2
Child Day Care Home (15 or more children)	C	C	C			-	-	-	-	-	-	-	See Section 10-3.204 a 3
Child Day Care Center	C	C	C			C	P	P	P	P	P	P	See Section 10-3.204 b
Convalescent and Other Care Facility	C	C	C			C	P	P	P	P	P	P	Commercial facility
Emergency Shelter	-	-	-			-	C	C	<u>P</u>	C	C	C	See Section 10-3.205
Homeless Shelter	-	-	-			-	C	C	<u>P</u>	C	C	C	See Section 10-3.205
<u>Low Barrier Navigation Center</u>	-	-	-	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>C</u>	<u>C</u>	<u>C</u>	See Sections 10-2.149.1 and 10-3.208.1
Residential Care Facility (6 or fewer persons)	P	P	P			-	-	-	-	-	-	-	
Residential Care Facility (7 or more persons)	C	C	C			-	-	-	-	-	-	-	
Residential Care Facility (2 or more care facilities)	C	C	C			-	-	-	-	-	-	-	See Section 10-3.216

Residential Service Facility (not State licensed)	C	C	C			-	-	-	-	-	-	-	
Supportive Housing	P	P	P			P	P	P	P	-	-	-	See Section 10-2.192
Transitional Housing	P	P	P			P	P	P	P	-	-	-	See Section 10-2.194
Vehicle Related													
Heavy Vehicles													See Section 10-2.198
Farm Equipment Sales, Rental, Repair, & Service	-	-	-			-	-	-	C	P	P	P	
Truck & Trailer Sales, Rental, Repair, & Service	-	-	-			-	-	-	C	P	P	P	
Light Vehicles													See Section 10-2.199
Minor Maintenance (minor tune up, smog check)	-	-	-			-	C/P	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
Parts Store	-	-	-			-	P	P	P	P	P	P	
Rental and Sales	-	-	-			-	-	P	P	P	P	P	
Repair and Service, Major	-	-	-			-	-	-	-	C/P	C/P	C/P	See Sections 10-2.199 a and 10-3.222
Repair and Service, Minor	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Sections 10-2.199 b and 10-3.222
Service Station	-	-	-			-	P	P	P	P	P	P	
Stereo Installation	-	-	-			-	-	C/P	C/P	C/P	C/P	C/P	See Section 10-3.222
Legend													
		P Permitted Use — Not Permitted C Conditional Use Note: A blank box means the land use is not applicable and/or refer to notes. P* Low Barrier Navigation Centers as a Permitted Use in the Mixed Use and Commercial Zones shall be repealed on January 1, 2027.											

SECTION 4. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, “Land Use Regulations,” Article 2, “Specific Land Use Regulations,” Section 10-3.205, “Emergency Shelters,” is hereby amended to read as follows:

10-3.205 – Emergency and Homeless Shelters.

- (a) Emergency and Homeless Shelters shall be allowed as a permitted use, subject to a ministerial development plan review process, in the C-3 (Highway Commercial) zone subject to the following standards:
 - (1) Number of Beds. The maximum number of beds or persons permitted to be served nightly by an emergency or homeless shelter shall be determined and as allowed by Building and Fire Codes.
 - (2) Required Parking. An emergency or homeless shelter shall provide off-street parking at a ratio of one (1) space per employee.
 - (3) Waiting Area. An emergency or homeless shelter shall provide an on-site, client intake, waiting area to prevent queuing on public sidewalks.

- (4) Onsite management. An emergency or homeless shelter shall have a manager on-site during operating hours.
- (5) Proximity. Emergency or homeless shelters shall not be less than 300-feet apart from other emergency or homeless shelters, as measured from the nearest property lines.
- (6) Length of Stay. The maximum length of stay at an emergency or homeless shelter shall be 180-days in a consecutive 365-day period, or not longer than the time frame established by the California Health and Safety Code for Emergency Shelters, whichever is greater.
- (7) Lighting. Sites with an emergency or homeless shelter shall provide lighting in all parking, pedestrian, and entry areas. Lighting shall be in compliance with Title 24, California Code of Regulations.
- (8) Security. Emergency or homeless shelters shall provide on-site security during hours that the emergency shelter is in operation.

No other development standards than the above standards shall be applied to emergency and homeless shelters.

SECTION 5. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 3, "Land Use Regulations," Article 2, "Specific Land Use Regulations," Section 10-3.208.1, "Low Barrier Navigation Center," is hereby added to read as follows:

10-3.208.1– Low Barrier Navigation Centers.

(a) The provisions in this Section, related to Low Barrier Navigation Centers are repealed as of January 1, 2027, unless the provisions of Article 12 of Chapter 3 of Division 1 of Title 7 of the Government Code are extended by the State beyond that date. Subsequent to that day, unless the provisions are extended by the State, Low Barrier Navigation Centers shall be permitted with the approval of a Conditional Use Permit in the commercial and industrial zones.

(b) A Low Barrier Navigation Center shall be subject to the following requirements:

- (1) It offers services to connect people to permanent housing through a services plan that identifies services staffing; and,
- (2) It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing; and,

- i. “Coordinated entry system” means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.
- (3) It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code; and,
- (4) It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.
- (c) The City shall notify an applicant for a Low Barrier Navigation Center within 30 days of receipt of an application whether the application is complete. The City shall act on an application for a Low Barrier Navigation Center within 60 days of the receipt of a complete application.

SECTION 6. CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”).

The proposed Ordinance is exempt from CEQA under the general rule in CEQA Guidelines section 15061(b)(3), that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days following its final passage and adoption.

SECTION 8. PUBLICATION.

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto,

setting forth the title of this Ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2023, by Councilmember Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Williams, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

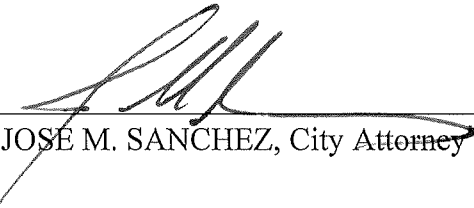
APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of November, 2023, Councilmember Wright who moved its final adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: December 14, 2023

ORDINANCE NO. 3772-C.S.

AN ORDINANCE AMENDING CHAPTER 7 “OTHER ZONES” OF TITLE 10 OF THE MODESTO MUNICIPAL CODE TO ADD ARTICLE 6 REGARDING A MIXED USE PEDESTRIAN ORIENTED (MU-P) ZONE

WHEREAS, housing production in State of California has not kept pace with demand, resulting in the lack of housing and in particular lack of affordable housing; and

WHEREAS, this code amendment is necessary at this time as the city undertakes an update of both the General Plan and the Housing Element; and

WHEREAS, a public hearing was held by the Planning Commission on October 2, 2023, in the Chambers, 1010 Tenth Street, Modesto, California at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the city has caused to be prepared an Initial Study, Environmental Assessment No. EA/C&ED 2023-19, which concluded that the proposed zoning code amendments are within the scope of the General Plan Master Environmental Impact Report (SCH No. 2014042081) and that pursuant to Section 21157.1(b) of the CEQA Guidelines, no new environmental review is required; and

WHEREAS, after a public hearing held on October 2, 2023, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because the creation of the Mixed Use zones will provide a means to allow for the addition of multi-family land uses in areas currently developed (or under-developed) with commercial uses; Will result in an orderly planned use of land because Mixed Use zones will allow for the inclusion of multi-family land uses in existing commercial corridors (i.e., areas with proximity to services and transit) while providing regulations to protect the privacy of single family residentially

zoned land; and, is in accordance with the community's objectives as set forth in the General Plan because the proposed code amendments will provide a means for the City to zone additional sites to allow for the development of multiple family residential uses in addition to the allowed commercial uses consistent with the State's required Regional Housing Needs Allocation, and

WHEREAS, by Resolution No. 2023-24 adopted on October 2, 2023, the Planning Commission recommended to the Council that the proposed amendments to Title 10 of the Modesto Municipal Code including the addition of Article 6 regarding a Mixed Use Pedestrian Oriented (MU-P) Zone to Chapter 7 of Title 10 of the Modesto Municipal Code, be approved, and

WHEREAS, this Code amendment was set for a public hearing on November 7, 2023, before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed addition of Article 6 regarding a Mixed Use Pedestrian Oriented (MU-P) Zone to Chapter 7 of Title 10 of the Modesto Municipal Code, and

WHEREAS, evidence, both written and oral, was duly presented and considered by the City Council at the aforesaid public hearing; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

WHEREAS, after a public hearing held on November 7, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because the creation of the Mixed Use zones will provide a

means to allow for the addition of multi-family land uses in areas currently developed (or under-developed) with commercial uses.

2. The requested change will result in an orderly planned use of land because the proposed Mixed Use-Highway Oriented (MU-H) and Mixed Use – Pedestrian Oriented (MU-P) zones will allow for the inclusion of multi-family land uses in existing commercial corridors (i.e., areas with proximity to services and transit) while providing regulations to protect the privacy of single family residentially zoned land; and follow the goals of the Housing Plan to incorporate additional density through mixed-use development.
3. The requested change is in accordance with the community’s objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments will provide a means for the City to zone additional sites to allow for the development of multiple family residential uses in addition to the allowed commercial uses consistent with the State’s required Regional Housing Needs Allocation.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 7, “Other Zones,” Article 6, “Mixed Use Pedestrian Oriented (MU-P) Zone” is hereby added to read as follows:

Article 6 – Mixed Use Pedestrian Oriented (MU-P) Zone

10-7.601 Purpose and intent.

(a) This Article establishes the following Mixed Use Zone:

(1) Mixed Use Pedestrian Oriented (MU-P) zone. The MU-P zone is intended to promote and guide the development of pedestrian-oriented, multifamily residential infill on lots or portions of lots that are currently developed or underdeveloped with General Commercial uses. The Mixed Use Pedestrian Oriented (MU-P) zone is intended for areas located adjacent to streets that are not more than two (2) travel lanes in each direction.

10-7.602 Applicability.

The provisions of this article shall supersede any standards, provisions, or regulations of all other articles of Title 10 that are in conflict with its provisions. All other standards, provisions, or regulations of Title 10 not in conflict with this article shall remain in effect.

When applying other provisions of Title 10 to the Mixed Use Pedestrian Oriented (MU-P) zone, the MU-P zone shall be considered as the equivalent to the C-2 (General Commercial) for commercial uses; and as the equivalent to the R-3 (Medium-High Density Residential) for high density residential uses, as modified herein.

10-7.603 Permitted Uses.

Table 7.6-1

Land Use	Zoning District	Notes
	MU – P	
AGRICULTURAL		
Community Gardens	P	See Section 10-2.114
Fruit and nut trees, vines, row crops, horticulture stock	P	
RESIDENTIAL		
Accessory Uses		
Animals and Fowl	-	
Garage Sales	-	
Home Business	-	
Personal Cannabis Cultivation	P	See Section 10-3.601 et seq.
Dwellings		
Accessory Buildings	P	See Section 10-4.114
Accessory Dwelling Unit, Junior Accessory Dwelling Unit	P	See Chapter 4, Article 5
Single Family Dwelling	-	
Manufactured Homes	-	
Multiple Family	P	
Mobile Home Parks	-	10-7.103(b)(2)
Other Residential Uses within Dwellings		
Lodging and Boarding (3 or fewer persons, 1 dwelling)	-	See Section 10-3.208
Lodging and Boarding (4 or more persons, 1 dwelling)	-	See Section 10-3.208
Lodging and Boarding	C	See Section 10-3.208

(3 or fewer persons, 2 dwellings on a lot)		
Lodging and Boarding (4 or more persons, 2 dwellings on a lot)	C	See Section 10-3.208
CIVIC/INSTITUTIONAL		
Educational Facilities		
School – Private (Including charter schools)	P	
School – Public (Including charter schools)	P	
School – Vocational	P	
Healthcare Facilities		
Hospital	P	
Substance Abuse Clinic/Facility	P	
Veterinary Hospital (large animals)	-	See Section 10-2.1100
Veterinary Hospital (small animals)	P	See Section 10-2.1101
Non-Profit Organization		
No Retail (Office, classroom, meeting hall)	P	
Retail	P	
Public Facilities		
Library	P	
Museum	P	
Public Buildings and Grounds (i.e., corporation yard)	C	
Public Facilities, Minor (wells, pumps)	P	
Public Parks	P	
Storm Drainage Facilities	P	
Quasi-Public Facilities		
Cemetery	-	See Section 10-7.103 b 3

Church (place of worship)	P	
Utilities		
Solar Energy Systems (accessory use)	P	See Section 10-2.187
Solar Energy Farm	-	See Section 10-2.186
Utility Company Buildings, Facilities, and Grounds	C	
Utilities and Railroads		See Section 10-3.221
COMMERCIAL		
Communication		
Broadcasting Studio (Radio or television)	P	
Radio or Television Transmitter	C	
Wireless Telecommunication Facilities		See Chapter 3, Article 4
Entertainment		
Adult Entertainment Business	-	See Chapter 3, Article 3
Carnival (entertainment permit required)	P	See Title 4, Chapter 1, Article 4
Circus (entertainment permit required)	P	See Title 4, Chapter 1, Article 4
Entertainment Establishment (entertainment permit required)	P	See Title 4, Chapter 1, Article 4
Theater, Motion Picture (indoor)	P	
Commercial Cannabis Uses		See Chapter 3, Article 7
Commercial Marijuana Activity	-	See Section 10-3.210
Lodging		
Motel, Hotel	P	
Bed and Breakfast (2 rooms for lodging, owner resides on site)	-	
Office		
General	P	See Section 10-2.159
Medical	P	See Section 10-2.160
Outdoor Sales and Activities		
Auction Yard	-	

Certified Farmers' Market	P	See Section 10-3.212 a
Food and Drink Stands	P	See Section 10-3.212 b
Fund Raisers (nonprofit organizations)	P	See Section 10-3.212 c
Outdoor Dining Areas	P	See Section 10-3.212 d
Outdoor Display, major	P	See Section 10-3.212 e (2)
Outdoor Display, minor	P	See Section 10-3.212 e (1)
Outdoor Sales (products customarily sold indoor)	P	See Section 10-3.212 f
Promotions	P	See Section 10-3.212 g
Seasonal Sales (fireworks, pumpkins, Christmas trees)	P	See Section 10-3.212 h
Mobile Food Facilities	P	See Sections 10-3.210 and 10-3.212 i
Flea Market - Indoor	P	
Flea Market - Outdoor	-	
Industrial	-	See Section 10-3.213
Recreational		
Campground, Recreation Vehicle Overnight Park	-	
Health Club	P	
Private Club, Lodge, Social Club, Cultural Center	P	
Recreation Facility - Indoor	P	See Section 10-2.165
Recreation Facility - Outdoor	C	See Section 10-2.166
Recycling (Collection)		
Recycling Facility, Large (more than 500 SF area)	C	
Recycling Facility, Small (500 SF max area)	P	See Section 10-3.215 b
Unattended Containers no more than 50 SF area (in residential zones w/ school, church, or government use)	-	See Section 10-3.215 a

Unattended Containers/Reverse Vending Machine no more than 50 SF area (w/ permitted or conditional use)	P	
Restaurants		
Banquet Hall	C/P	See Section 10-3.203
Bar, Cocktail Lounge, Tavern	C/P	See Section 10-3.203
Restaurants (w/ alcohol)	C/P	See Section 10-3.203
Restaurants (w/o alcohol)	P	
Retail		
General Retail	P	See Section 10-2.174
Neighborhood Retail	P	See Section 10-2.175
Services		
General Services		
Ambulance Service	P	
Armored Car Service	P	
Business Services	P	See Section 10-2.178
Car Wash	C/P	See Section 10-3.222
Equipment Rental (indoors)	P	
Exterminating Service	P	
Fortune Telling	P	
Funeral Home (includes cremation)	C	
Janitor Service	P	
Kennel	C	
Laboratory (research and testing)	P	
Package Delivery Service	-	
Personal Services	P	See Section 10-2.179
Security Company	P	
Self Storage	-	
Sign Painting Shop	P	

Stone Monument	C	
Taxicab Service	P	
Taxidermist Shop	P	
Towing Services (no impound yard)	P	
Trade Services	P	See Section 10-2.182
Repair Services		
Major Repair	P	See Section 10-2.180
Minor Repair	P	See Section 10-2.181
Social Assistance Services		
Assisted Living Facility	P	
Adult Day Care (3 or fewer clients, 1 unit per lot)	-	Residential dwelling. Clients plus family members
Adult Day Care (4 or more clients, 1 unit per lot)	-	
Adult Day Care (3 or fewer clients, 2 units per lot)	-	
Adult Day Care	P	Commercial facility
Day Care Home - Small Family (6 or fewer children)	-	See Section 10-3.204 a 1
Day Care Home - Large Family (7-14 children)	-	See Section 10-3.204 a 2
Child Day Care Home (15 or more children)	-	See Section 10-3.204 a 3
Child Day Care Center	P	See Section 10-3.204 b
Convalescent and Other Care Facility	P	Commercial facility
Emergency Shelter	-	See Section 10-3.205
Homeless Shelter	-	
Residential Care Facility (6 or fewer persons)	-	
Residential Care Facility (7 or more persons)	-	

Residential Care Facility (2 or more care facilities)	-	See Section 10-3.216
Residential Service Facility (not State licensed)	-	
Supportive Housing	P	See Section 10-2.192
Transitional Housing	P	See Section 10-2.194
Vehicle Related		
Heavy Vehicles		See Section 10-2.198
Farm Equipment Sales, Rental, Repair, & Service	-	
Truck & Trailer Sales, Rental, Repair, & Service	-	
Light Vehicles		See Section 10-2.199
Minor Maintenance (minor tune up, smog check)	C/P	See Section 10-3.222
Parts Store	P	
Rental and Sales	P	
Repair and Service, Major	-	See Sections 10-2.199 a and 10-3.222
Repair and Service, Minor	C/P	See Sections 10-2.199 b and 10-3.222
Service Station	P	
Stereo Installation	C/P	See Section 10-3.222
INDUSTRIAL		
Manufacturing		
Heavy	-	See Section 10-2.150
Light	-	See Section 10-2.151
Other Manufacturing Involving:		
Chemical Products (Hazardous)	-	
Explosives	-	

Natural Gas and Gas Products	-	
Paper, Pulp, and Wood (no burning operation)	-	
Other Industrial		
Animal Slaughter Facility	-	
Brewery	-	
Microbrewery	C/P	See Section 10-3.203
Bulk Fuel Storage (Class II flammable liquids for the power needs of food processing plants)	-	
Cabinet Shop	-	
Contracting Business (with equipment and materials yard)	-	
Distributing, Freightng or Trucking Yard	-	
Equipment Rental Yard	-	
Laundry and Dry Cleaning Plant	-	
Machine Shop	-	
Power Plant	-	
Rock Crushing	-	
Sand, Gravel, Brick, and Building Block Yard (no concrete mixing, manufacture or rock crushing)	-	
Sheet Metal Shop	-	
Tire Rebuilding, Recapping, Retreading	-	
Transit and Transportation Equipment Storage Yard	-	
Vehicle Impound Yard	-	
Warehousing	-	
Waste Disposal or Transfer Station	-	
Welding Shop	-	
Wholesale Business	-	
Winery	-	

Recycling Facilities		
Recycling, Junk Handling, Processing and Storage, Heavy	-	
Recycling Processing Facility, Light	-	
Vehicle Salvage, Wrecking	-	
Miscellaneous		
Accessory Uses and Buildings		
Customarily incidental to permitted & conditional uses	P	
Incidental Manufacturing, Processing, Packaging, Storage, or Wholesale Sales	P	
Parking		
Parking Area in residential zone for adjacent nonresidential use in nonresidential zone	-	
Parking Area in P-O zone for adjacent commercial use in commercial zone	-	
Parking Lot or Garage	P	
Recreational Vehicles	P	See Section 10-3.214
Trucks and Truck Trailers in residential zones	-	See Section 10-3.220
Temporary Buildings		
Construction Buildings	P	See Section 10-3.218
Mobile Living Quarters	-	See Section 10-3.211
Sales Offices and Model Homes	P	See Section 10-3.219
Legend		
P = Permitted Use - = Not Permitted C = Conditional Use		Note: A blank box means the land use is not applicable and/or refer to notes.

10-7.604 Mixed-Use Zone Development Standards

Table 7.6-2 Mixed Use – Pedestrian Oriented (MU-P) Development Standards

In addition to the following development standards, the Development Standards in Chapter 4 (Development Standards), Article 4 (General Development Standards) shall apply to the Mixed Use – Pedestrian Oriented (MU-P) zone.

Development Standards		Zoning District		Notes
		MU – P		
SETBACK REQUIREMENTS (Minimum Setbacks)				
Residential Buildings (except garage, parking garage, carport, parking space):				
Front and Street Side (corner lot)		15-ft.		See Section 10-4.106
Side (interior)				See Section 10-4.107 b
Building	One-Story Portion	5-ft.		
	Two-Story Portion	Adjacent to R-1	15-ft.	
		Not Adjacent to R-1	10-ft.	
	Three-story Portion	Adjacent to R-1	20-ft.	
Not Adjacent to R-1		10-ft.		
Rear				
Building	One-Story Portion	10-ft.		
	Two-Story Portion	15-ft.		
	Three-story Portion	Adjacent to R-1	20-ft.	
		Not Adjacent to R-1	15-ft.	
Commercial or Mixed Use Buildings				
Front and Street Side (corner lot)		15-ft.		Both frontages on through lots
Lot adjacent to alley		0-ft.		
Side (interior)				
Building	Not adjacent to Residential Zone	0-ft.		
	Adjacent to Residential Zone ¹	One-Story Portion	10 to 40-ft.	See Section 10-4.203
Two-Story Portion		20 to 40-ft.		

¹ Adjacent to residential zone includes R-1, R-2, R-3, or residential P-D zones in the City or County. Note: Except as modified herein, Multifamily development shall comply with R-3 development standards.

		Three-story and Higher Portion	50-ft	
Rear				
Building	Not adjacent to Residential Zone	0-ft.		
	Adjacent to Residential Zone ¹	One-Story Portion	10-ft.	
		Two-Story Portion	20-ft.	
		Three-story and Higher Portion	50-ft.	
Parking Area(s):				
Note: Multi-story Parking Structures Shall Meet Setbacks Required for Building				
Front and Street Side (corner lot)		10-ft.		
Lot adjacent to alley		4-ft.		
Rear and Side (interior)				
Not adjacent to Residential Zone		0-ft.		
Adjacent to Residential Zone ¹		10-ft.		
RESIDENTIAL DENSITY REQUIREMENTS:		Minimum: 22 du/ac		
		Maximum: 45 du/ac		
HEIGHT REQUIREMENTS (Maximum Stories/Feet, whichever is less)				
Residential, Commercial, or Mixed Use Buildings:				
Building	Not adjacent to residential zone	8 stories/90-feet		Added height with CUP See Section 10-4.401
	Adjacent to Residential Zone ¹	3 stories/45-feet		
OTHER REQUIREMENTS				
Parking				See Chapter 5
Signs				See Chapter 6.
Access				See Section 10-4.204
Fencing				See Section 10-4.406
Design				See Section 10-4.205

Landscaping	See Chapter 4, Table 4.2-1
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10-7.605 Upper Story Provisions for Multifamily Development in a Mixed Use Zone

- (a) Where a multi-story residential building is proposed on a lot abutting a Low-Density Residentially zoned lot, any walls of the multi-story residential building that could provide unobstructed views (from windows or balconies) of a rear yard or actively used side yard on a Low-Density residentially zoned lot, the following shall apply:
 - (1) The Multi-story residential building shall have either no windows or windows with a bottom sill located at least five (5) feet eight (8) inches from the finished floor of a second (or higher) story; and
 - (2) No balconies shall face the low-density residentially zoned parcel.
- (b) The requirement in part (a) does not apply to windows required by the Building Code to be usable for accessible emergency access.
 - (1) Windows required for emergency access shall be frosted or otherwise altered to provide additional privacy, as approved by the Director, if those windows are located on walls that could provide unobstructed views of a rear yard or actively used side yard on a Low-Density Residentially zoned lot.

10-7.606 General Parking Provisions

Unless otherwise provided in this article, the parking requirements shall be as specified in Chapter 5 – Parking Requirements.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

The City has caused to be prepared an Initial Study, Environmental Assessment No. EA/C&ED 2023-19, which concluded that the proposed zoning code amendments are within the scope of the General Plan Master Environmental Impact Report (SCH No. 2014042081) and that pursuant to Section 21157.1(b) of the CEQA Guidelines, no new environmental review is required.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2023, by Councilmember Escutia-Braaton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Bavaro, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwahlen

APPROVED: 

CHRIS RICCI, Vice Mayor

ATTEST:

By: 

DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 

JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 

Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of November, 2023, Councilmember Bavaro moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwahlen

APPROVED: 

CHRIS RICCI, Vice Mayor

ATTEST: 

DIANE NAYARES-PEREZ, City Clerk

Effective Date: December 14, 2023

ORDINANCE NO. 3773-C.S.

AN ORDINANCE AMENDING CHAPTER 7 “OTHER ZONES” OF TITLE 10 OF THE MODESTO MUNICIPAL CODE TO ADD ARTICLE 7 REGARDING A MIXED USE HIGHWAY ORIENTED (MU-H) ZONE

WHEREAS, housing production in State of California has not kept pace with demand, resulting in the lack of housing and in particular lack of affordable housing; and

WHEREAS, this code amendment is necessary at this time as the city undertakes an update of both the General Plan and the Housing Element; and

WHEREAS, a public hearing was held by the Planning Commission on October 2, 2023, in the Chambers, 1010 Tenth Street, Modesto, California at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the city has caused to be prepared an Initial Study, Environmental Assessment No. EA/C&ED 2023-19, which concluded that the proposed zoning code amendments are within the scope of the General Plan Master Environmental Impact Report (SCH No. 2014042081) and that pursuant to Section 21157.1(b) of the CEQA Guidelines, no new environmental review is required; and

WHEREAS, after a public hearing held on October 2, 2023, it was found and determined by the Planning Commission that the requested code amendment will not be detrimental to the public health, safety or welfare because the creation of the Mixed Use zones will provide a means to allow for the addition of multi-family land uses in areas currently developed (or under-developed) with commercial uses; Will result in an orderly planned use of land because Mixed Use zones will allow for the inclusion of multi-family land uses in existing commercial corridors (i.e., areas with proximity to services and transit) while providing regulations to protect the privacy of single family residentially

zoned land; and, is in accordance with the community's objectives as set forth in the General Plan because the proposed code amendments will provide a means for the City to zone additional sites to allow for the development of multiple family residential uses in addition to the allowed commercial uses consistent with the State's required Regional Housing Needs Allocation, and

WHEREAS, by Resolution No. 2023-27 adopted on October 2, 2023, the Planning Commission recommended to the Council that the proposed amendments to Title 10 of the Modesto Municipal Code including the addition of Article 7 regarding a Mixed Use Highway Oriented (MU-H) Zone to Chapter 7 of Title 10 of the Modesto Municipal Code, be approved, and

WHEREAS, this Code amendment was set for a public hearing on November 7, 2023, before the City Council, at which date and time said duly noticed public hearing of the Council was held for the purpose of receiving public comment on the proposed addition of Article 7 regarding a Mixed Use Highway Oriented (MU-H) Zone to Chapter 7 of Title 10 of the Modesto Municipal Code, and

WHEREAS, evidence, both written and oral, was duly presented and considered by the City Council at the aforesaid public hearing; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

WHEREAS, after a public hearing held on November 7, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because the creation of the Mixed Use zones will provide a

means to allow for the addition of multi-family land uses in areas currently developed (or under-developed) with commercial uses.

2. The requested change will result in an orderly planned use of land because the proposed Mixed Use-Highway Oriented (MU-H) and Mixed Use – Pedestrian Oriented (MU-P) zones will allow for the inclusion of multi-family land uses in existing commercial corridors (i.e., areas with proximity to services and transit) while providing regulations to protect the privacy of single family residentially zoned land; and follow the goals of the Housing Plan to incorporate additional density through mixed-use development.
3. The requested change is in accordance with the community’s objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments will provide a means for the City to zone additional sites to allow for the development of multiple family residential uses in addition to the allowed commercial uses consistent with the State’s required Regional Housing Needs Allocation.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Title 10 of the Modesto Municipal Code, Chapter 7, “Other Zones,” Article 7, “Mixed Use Highway Oriented (MU-H) Zone” is hereby added to read as follows:

Article 7 – Mixed Use Highway Oriented (MU-H) Zone

10-7.701 Purpose and intent.

(a) This Article establishes the following Mixed Use Zone:

(1) Mixed Use Highway Oriented (MU-H) zone. The MU-H zone is intended to promote and guide the development of multifamily residential infill on lots (or portions of lots) in areas that are currently developed with General Commercial or Highway Commercial uses. The Mixed Use Highway Oriented (MU-H) zone is intended for areas located adjacent to streets that are more than two (2) travel lanes in each direction.

10-7.702 Applicability.

The provisions of this article shall supersede any standards, provisions, or regulations of all other articles of Title 10 that are in conflict with its provisions. All other standards, provisions, or regulations of Title 10 not in conflict with this article shall remain in effect.

When applying other provisions of Title 10 to the Mixed Use Highway Oriented (MU-H) zone, the MU-H zone shall be considered as the equivalent to the C-3 (Highway Commercial) for commercial uses; and as the equivalent to the R-3 (Medium-High Density Residential) for high density residential uses, as modified herein.

10-7.703 Permitted and Conditional Land Uses.

Table 7.7-1

Land Use	Zoning District	Notes
	MU - H	
AGRICULTURAL		
Community Gardens	P	See Section 10-2.114
Fruit and nut trees, vines, row crops, horticulture stock	P	
RESIDENTIAL		
Accessory Uses		
Animals and Fowl	-	
Garage Sales	-	
Home Business	-	
Personal Cannabis Cultivation	P	See Section 10-3.601 et seq.
Dwellings		
Accessory Buildings	P	See Section 10-4.114
Accessory Dwelling Unit, Junior Accessory Dwelling Unit	P	See Chapter 4, Article 5
Single Family Dwelling	-	
Manufactured Homes	-	
Multiple Family	P	
Mobile Home Parks	-	10-7.103(b)(2)
Other Residential Uses within Dwellings		
Lodging and Boarding (3 or fewer persons, 1 dwelling)	-	See Section 10-3.208
Lodging and Boarding (4 or more persons, 1 dwelling)	-	See Section 10-3.208

Lodging and Boarding (3 or fewer persons, 2 dwellings on a lot)	C	See Section 10-3.208
Lodging and Boarding (4 or more persons, 2 dwellings on a lot)	C	See Section 10-3.208
CIVIC/INSTITUTIONAL		
Educational Facilities		
School – Private (including charter schools)	P	
School – Public (including charter schools)	P	
School – Vocational	P	
Healthcare Facilities		
Hospital	P	
Substance Abuse Clinic/Facility	P	
Veterinary Hospital (large animals)	-	See Section 10-2.1100
Veterinary Hospital (small animals)	P	See Section 10-2.1101
Non-Profit Organization		
No Retail (office, classroom, meeting hall)	P	
Retail	P	
Public Facilities		
Library	P	
Museum	P	
Public Buildings and Grounds (i.e., corporation yard)	C	
Public Facilities, Minor (wells, pumps)	P	
Public Parks	P	
Storm Drainage Facilities	P	
Quasi-Public Facilities		
Cemetery	-	See Section 10-7.103 b 3
Church (place of worship)	P	

Utilities		
Solar Energy Systems (accessory use)	P	See Section 10-2.187
Solar Energy Farm	-	See Section 10-2.186
Utility Company Buildings, Facilities, and Grounds	C	
Utilities and Railroads		See Section 10-3.221
COMMERCIAL		
Communication		
Broadcasting Studio (Radio or television)	P	
Radio or Television Transmitter	C	
Wireless Telecommunication Facilities		See Chapter 3, Article 4
Entertainment		
Adult Entertainment Business	-	See Chapter 3, Article 3
Carnival (entertainment permit required)	P	See Title 4, Chapter 1, Article 4
Circus (entertainment permit required)	P	See Title 4, Chapter 1, Article 4
Entertainment Establishment (entertainment permit required)	P	See Title 4, Chapter 1, Article 4
Theater, Motion Picture (indoor)	P	
Commercial Cannabis Uses		See Chapter 3, Article 7
Commercial Marijuana Activity	-	See Section 10-3.210
Lodging		
Motel, Hotel	P	
Bed and Breakfast (2 rooms for lodging, owner resides on site)	-	
Office		
General	P	See Section 10-2.159
Medical	P	See Section 10-2.160
Outdoor Sales and Activities		

Auction Yard	-	
Certified Farmers' Market	P	See Section 10-3.212 a
Food and Drink Stands	P	See Section 10-3.212 b
Fund Raisers (nonprofit organizations)	P	See Section 10-3.212 c
Outdoor Dining Areas	P	See Section 10-3.212 d
Outdoor Display, major	P	See Section 10-3.212 e (2)
Outdoor Display, minor	P	See Section 10-3.212 e (1)
Outdoor Sales (products customarily sold indoor)	P	See Section 10-3.212 f
Promotions	P	See Section 10-3.212 g
Seasonal Sales (fireworks, pumpkins, Christmas trees)	P	See Section 10-3.212 h
Mobile Food Facilities	P	See Sections 10-3.210 and 10-3.212 i
Flea Market - Indoor	P	
Flea Market - Outdoor	-	
Industrial	-	See Section 10-3.213
Recreational		
Campground, Recreation Vehicle Overnight Park	C	
Health Club	P	
Private Club, Lodge, Social Club, Cultural Center	P	
Recreation Facility - Indoor	P	See Section 10-2.165
Recreation Facility - Outdoor	C	See Section 10-2.166
Recycling (Collection)		
Recycling Facility, Large (more than 500 SF area)	C	
Recycling Facility, Small (500 SF max area)	P	See Section 10-3.215 b
Unattended Containers no more than 50 SF area (in residential zones w/ school, church, or government use)	-	See Section 10-3.215 a

Unattended Containers/Reverse Vending Machine no more than 50 SF area (w/ permitted or conditional use)	P	
Restaurants		
Banquet Hall	C/P	See Section 10-3.203
Bar, Cocktail Lounge, Tavern	C/P	See Section 10-3.203
Restaurants (w/ alcohol)	C/P	See Section 10-3.203
Restaurants (w/o alcohol)	P	
Retail		
General Retail	P	See Section 10-2.174
Neighborhood Retail	P	See Section 10-2.175
Services		
General Services		
Ambulance Service	P	
Armored Car Service	P	
Business Services	P	See Section 10-2.178
Car Wash	C/P	See Section 10-3.222
Equipment Rental (indoors)	P	
Exterminating Service	P	
Fortune Telling	P	
Funeral Home (includes cremation)	C	
Janitor Service	P	
Kennel	C	
Laboratory (research and testing)	P	
Package Delivery Service	C	
Personal Services	P	See Section 10-2.179
Security Company	P	
Self Storage	C	
Sign Painting Shop	P	

Stone Monument	C	
Taxicab Service	P	
Taxidermist Shop	P	
Towing Services (no impound yard)	P	
Trade Services	P	See Section 10-2.182
Repair Services		
Major Repair	P	See Section 10-2.180
Minor Repair	P	See Section 10-2.181
Social Assistance Services		
Assisted Living Facility	P	
Adult Day Care (3 or fewer clients, 1 unit per lot)	-	Residential dwelling. Clients plus family members
Adult Day Care (4 or more clients, 1 unit per lot)	-	
Adult Day Care (3 or fewer clients, 2 units per lot)	-	
Adult Day Care	P	Commercial facility
Day Care Home - Small Family (6 or fewer children)	-	See Section 10-3.204 a 1
Day Care Home - Large Family (7-14 children)	-	See Section 10-3.204 a 2
Child Day Care Home (15 or more children)	-	See Section 10-3.204 a 3
Child Day Care Center	P	See Section 10-3.204 b
Convalescent and Other Care Facility	P	Commercial facility
Emergency Shelter	-	See Section 10-3.205
Homeless Shelter	-	
Residential Care Facility (6 or fewer persons)	-	
Residential Care Facility (7 or more persons)	-	

Residential Care Facility (2 or more care facilities)	-	See Section 10-3.216
Residential Service Facility (not State licensed)	-	
Supportive Housing	P	See Section 10-2.192
Transitional Housing	P	See Section 10-2.194
Vehicle Related		
Heavy Vehicles		See Section 10-2.198
Farm Equipment Sales, Rental, Repair, & Service	C	
Truck & Trailer Sales, Rental, Repair, & Service	C	
Light Vehicles		See Section 10-2.199
Minor Maintenance (minor tune up, smog check)	C/P	See Section 10-3.222
Parts Store	P	
Rental and Sales	P	
Repair and Service, Major	-	See Sections 10-2.199 a and 10-3.222
Repair and Service, Minor	C/P	See Sections 10-2.199 b and 10-3.222
Service Station	P	
Stereo Installation	C/P	See Section 10-3.222
INDUSTRIAL		
Manufacturing		
Heavy	-	See Section 10-2.150
Light	-	See Section 10-2.151
Other Manufacturing Involving:		
Chemical Products (Hazardous)	-	
Explosives	-	
Natural Gas and Gas Products	-	
Paper, Pulp, and Wood (no burning operation)	-	

Other Industrial		
Animal Slaughter Facility	-	
Brewery	-	
Microbrewery	C/P	See Section 10-3.203
Bulk Fuel Storage (Class II flammable liquids for the power needs of food processing plants)	-	
Cabinet Shop	-	
Contracting Business (with equipment and materials yard)	-	
Distributing, Freighting or Trucking Yard	-	
Equipment Rental Yard	-	
Laundry and Dry Cleaning Plant	-	
Machine Shop	-	
Power Plant	-	
Rock Crushing	-	
Sand, Gravel, Brick, and Building Block Yard (no concrete mixing, manufacture or rock crushing)	-	
Sheet Metal Shop	-	
Tire Rebuilding, Recapping, Retreading	-	
Transit and Transportation Equipment Storage Yard	-	
Vehicle Impound Yard	-	
Warehousing	-	
Waste Disposal or Transfer Station	-	
Welding Shop	-	
Wholesale Business	-	
Winery	-	
Recycling Facilities		
Recycling, Junk Handling, Processing and Storage, Heavy	-	

Recycling Processing Facility, Light	-	
Vehicle Salvage, Wrecking	-	
Miscellaneous		
Accessory Uses and Buildings		
Customarily incidental to permitted & conditional uses	P	
Incidental Manufacturing, Processing, Packaging, Storage, or Wholesale Sales	P	
Parking		
Parking Area in residential zone for adjacent nonresidential use in nonresidential zone	-	
Parking Area in P-O zone for adjacent commercial use in commercial zone	-	
Parking Lot or Garage	P	
Recreational Vehicles	P	See Section 10-3.214
Trucks and Truck Trailers in residential zones	-	See Section 10-3.220
Temporary Buildings		
Construction Buildings	P	See Section 10-3.218
Mobile Living Quarters	-	See Section 10-3.211
Sales Offices and Model Homes	P	See Section 10-3.219
Legend		
P = Permitted Use - = Not Permitted C = Conditional Use		Note: A blank box means the land use is not applicable and/or refer to notes.

10-7.704 Mixed-Use Zone Development Standards

Table 7.7-2 Mixed Use- Highway Oriented (MU-H) Zone Development Standards

In addition to the following development standards, the Development Standards in Chapter 4 (Development Standards), Article 4 (General Development Standards) shall apply to the Mixed Use – Highway Oriented (MU-H) zone.

Development Standards		Zoning District		Notes
		MU - H		
SETBACK REQUIREMENTS (Minimum Setbacks)				
Residential Buildings (except garage, carport, parking space)				
Front and Street Side (corner lot)		15-ft.		See Section 10-4.106
Side (interior)				See Section 10-4.107 b
Building	One-Story Portion	5-ft.		
	Two-Story Portion	Adjacent to R-1	15-ft.	
		Not Adjacent to R-1	10-ft.	
	Three-story Portion	Adjacent to R-1	20-ft.	
Not Adjacent to R-1		10-ft.		
Rear				
Building	One-Story Portion	10-ft.		
	Two-Story Portion	15-ft.		
	Three-story Portion	Adjacent to R-1	20-ft.	
		Not Adjacent to R-1	15-ft.	
Commercial or Mixed Use Buildings				
Front and Street Side (corner lot)		15-ft.		Both frontages on through lots
Lot adjacent to alley		15-ft.		
Side (interior)				
Building	Not adjacent to Residential Zone	0-ft.		

	Adjacent to Residential Zone ¹	One-Story Portion	10 to 40-ft.	See Section 10-4.203
		Two-Story Portion	20 to 40-ft.	
		Three-story and Higher Portion	50-ft	
		Rear		
Building	Not adjacent to Residential Zone		0-ft.	
	Adjacent to Residential Zone ¹	One-Story Portion	10-ft.	
		Two-Story Portion	20-ft.	
		Three-story and Higher Portion	50-ft.	
Parking Area(s):				
Note: Multi-story Parking Structures Shall Meet Setbacks Required for Building(s)				
Front and Street Side (corner lot)			10-ft.	
Lot adjacent to alley			10-ft.	
Rear and Side (interior)				
Not adjacent to Residential Zone			0-ft.	
Adjacent to Residential Zone ¹			10-ft.	
RESIDENTIAL DENSITY REQUIREMENTS:		Minimum: 22 du/ac		
		Maximum: 45 du/ac		
HEIGHT REQUIREMENTS (Maximum Stories/Feet, whichever is less)				
Residential, Commercial, or Mixed Use Buildings:				
Building	Not adjacent to residential zone	3 stories/45 feet	Added height with CUP See Section 10-4.401	

provisions of Sections 65852.1 and 65852.2 of the Government Code.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

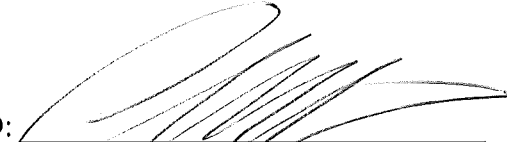
The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2023, by Councilmember Alvarez, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwahlen

APPROVED:


CHRIS RICCI, Vice Mayor

ATTEST:

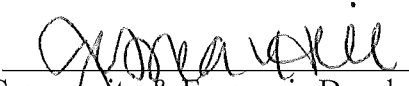
By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of November, 2023, Councilmember Bavaro moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwahlen

APPROVED: 

CHRIS RICCI, Vice Mayor

ATTEST: 

DIANE NAYARES-PEREZ, City Clerk

Effective Date: December 14, 2023

ORDINANCE NO. 3774-C.S.

ORDINANCE AMENDING SECTIONS 02-03-08, 04-03-09, 05-03-09, 08-03-09, 09-03-09, 11-03-08, 12-03-08, 13-03-08, 14-03-08, 14-03-09, 16-03-09, 17-03-09, 18-03-09, 19-03-09, 20-03-09, 21-03-09, 22-03-09, 23-03-09, 26-03-09, 28-03-09, AND 29-03-09 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE PROPERTIES LOCATED ALONG MCHENRY AVENUE, SISK ROAD, OAKDALE ROAD, AND YOSEMITE BOULEVARD FROM VARIOUS ZONES TO MIXED-USE PEDESTRIAN ZONE, MU-P, AND MIXED-USE HIGHWAY ZONE, MU-H.

WHEREAS, the City of Modesto has proposed an Amendment to Sections 02-03-08, 04-03-09, 05-03-09, 08-03-09, 09-03-09, 11-03-08, 12-03-08, 13-03-08, 14-03-08, 14-03-09, 16-03-09, 17-03-09, 18-03-09, 19-03-09, 20-03-09, 21-03-09, 22-03-09, 23-03-09, 26-03-09, 28-03-09, AND 29-03-09 of the Zoning Map, to rezone from various zoning designations to either of the Mixed-Use Pedestrian Zone, MU-P, or Mixed Use Highway Zone, MU-H, on properties located along the McHenry Avenue, Sisk Road, Oakdale Road, and Yosemite Boulevard corridors; and

WHEREAS, since 1969, the State of California has required that all local governments adequately plan to meet the housing needs of everyone in the community through the Regional Housing Needs Allocation (RHNA) process. This process starts with the state determining how much housing at a variety of affordability levels is needed for each region in the state, and then regional governments developing a methodology to allocate that housing need to local governments. California's local governments then adopt housing plans called housing elements as part of their General Plan, which is also required by the state, to show how the jurisdiction will meet local housing needs; and

WHEREAS, the Modesto Housing Plan, adopted by the Modesto City Council in 2022, includes in its Key Housing Production Strategies the strategy to Transform Major Commercial Corridors Into Neighborhoods; and

WHEREAS, the City of Modesto has submitted a draft 6th Cycle Housing Element to the Department of Housing and Community Development indicating how it will meet local housing needs, and in said Housing Element the City has identified commercial corridors along McHenry Avenue, Sisk Road, Oakdale Road, and Yosemite Boulevard as areas in which additional housing needs can be met; and

WHEREAS, in order to designate sites as “opportunity sites” that fulfill the RHNA obligations placed on the City, those sites must allow for multi-family residential uses as a by-right use; and

WHEREAS, parcels zoned in any of the Commercial Zones allow for multi-family residential uses only through a Conditional Use Permit, which does not meet the requirements to fulfill the City’s RHNA obligations; and

WHEREAS, the City has proposed to create the Mixed-Use Pedestrian (MU-P) Zone and Mixed-Use Highway (MU-H) Zone through a separate action, CODE-23-003; and

WHEREAS, the City proposes to amend the zoning of parcels within the abovementioned commercial corridors to the MU-P and MU-H zones in order to implement the goals of the 2022 Housing Plan and satisfy the State’s RHNA requirements by implementing the actions outlined in the draft 6th Cycle Housing Element, and

WHEREAS, after a public hearing held on October 16, 2023, the Planning Commission found that the proposed rezoning will not be detrimental to the public health, safety, or welfare because providing additional sites where multi-family housing is permitted by right will benefit the community, will result in an orderly planned use of land because the rezoned sites follow the goals of the Housing Plan to incorporate additional density through mixed use development in existing commercial corridors; and, is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments will provide for additional sites, with appropriate zoning, for the development of multiple family residential uses consistent with the State's required Regional Housing Needs Allocation that the City must meet with its Housing Element, a portion of the General Plan; and

WHEREAS, by Resolution No. 2023-25, adopted on October 16, 2023, the Planning Commission recommended to the Council that the proposed amendment to sections 02-03-08, 04-03-09, 05-03-09, 08-03-09, 09-03-09, 11-03-08, 12-03-08, 13-03-08, 14-03-08, 14-03-09, 16-03-09, 17-03-09, 18-03-09, 19-03-09, 20-03-09, 21-03-09, 22-03-09, 23-03-09, 26-03-09, 28-03-09, and 29-03-09 of the Zoning Map to rezone the hereinafter described properties from various zones to the Mixed-Use Pedestrian (MU-P) Zone, and Mixed-Use Highway (MU-H) Zone, be approved.

.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. After a public hearing held on November 7, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because providing additional sites where multi-family housing is permitted by right will benefit the community.
2. The requested change will result in an orderly planned use of land because the rezoning of these sites follows the goals of the Housing Plan to incorporate additional density through mixed use development in existing commercial corridors.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments will provide for additional sites, with appropriate zoning, for the development of multiple family residential uses consistent with the State's required Regional Housing Needs Allocation that the City must meet with its Housing Element, a portion of the General Plan.

SECTION 2. ZONING CHANGE.

A. MIXED-USE PEDESTRIAN (MU-P) ZONE

Sections 14-03-09, 16-03-09, 17-03-09, 20-03-09, 21-03-09, 22-03-09, 23-03-09, 28-03-09, AND 29-03-09 are hereby amended to rezone each of the parcels in the following list of Assessor's Parcel Numbers to the Mixed-Use Pedestrian Zone.

With the exception of any parcel that is partially zoned as a Planned Development, each parcel listed below shall be rezoned in its entirety to the Mixed-Use Pedestrian Zone regardless of whether it held one or more zoning designations previously. For any parcel that held both a Planned Development and another zoning designation, the Planned Development Zone shall remain, and other zoning designations shall be rezoned to the Mixed-Use Pedestrian Zone. Where possible, legal descriptions for such sites are listed below.

PARCELS TO BE REZONED TO MIXED-USE PEDESTRIAN (MU-P)

McHenry Avenue Corridor Assessor's Parcel Numbers:

031-001-001, 031-001-004, 031-001-006, 031-001-007, 031-001-008, 031-001-010, 031-001-011, 031-001-041, 031-001-042, 031-001-044, 031-001-045, 031-003-038, 031-003-039, 031-003-040, 031-003-078, 031-003-079, 031-003-080, 031-011-028, 031-011-029, 031-011-054, 031-011-055, 031-011-056, 110-002-013, 110-002-014, 110-002-017, 110-002-018, 110-002-079, 110-002-082, 110-003-055, 110-003-056, 110-003-079, 110-003-080, 110-003-081, 110-003-082, 110-007-060, 110-007-061,

110-007-062, 110-007-063, 110-007-064, 110-007-065, 110-007-066, 110-007-067, 110-007-068, 110-007-069, 110-007-070, 110-008-037, 110-008-038, 110-008-039, 110-008-040, 110-008-041, 110-008-042, 110-008-045, 111-001-001, 111-001-078, 111-001-079, 111-001-080, 111-001-081, 111-001-082, 111-001-083, 111-001-086, 111-005-002, 111-005-027, 111-005-029, 111-005-050, 111-005-067, 111-005-069, 111-005-071, 111-005-072, 111-006-001, 111-006-002, 111-006-022, 111-006-023, 111-006-045, 111-006-046, 111-006-061, 111-006-062, 111-006-067, 112-001-040, 112-001-041, 112-003-001, 112-003-020, 112-003-021, 112-003-022, 112-004-019, 112-004-020, 112-013-003, 112-013-012, 112-013-013, 112-045-001, 112-045-002, 112-045-014, 112-045-015, 112-045-016, 112-045-026, 112-045-027, 112-045-028, 112-045-052, 113-001-002, 113-001-005, 113-001-009, 113-001-012, 113-001-013, 113-001-014, 113-001-052, 113-001-055, 113-004-014, 113-004-029, 113-005-033, 113-005-036, 113-005-037, 113-005-038, 113-006-035, 113-006-036, 113-006-038, 113-006-057, 113-006-058, 119-005-018, 119-005-021, 119-006-009, 119-006-011, 119-006-017, 119-006-018, 119-006-021, 119-006-026, 119-006-027, 119-006-028, 119-006-029, 119-006-034, 119-006-035, 119-006-036, 119-006-037, 119-006-038, 119-006-039, 119-006-040, 119-006-041, 119-006-042, 119-006-043, 119-006-044, 119-014-032, 119-018-003, 119-018-004, 119-018-005, 119-018-006, 119-018-007, 119-018-009, 119-018-011, 119-018-013, 119-018-017, 119-018-018, 119-018-021, 119-018-022, 119-018-023, 119-018-024, 120-033-002, 120-033-003, 120-033-004, 120-033-005, 120-033-007, 120-033-008, 120-033-009, 120-033-018, 120-033-019, 120-033-020, 120-033-021, 120-033-022, 120-033-023, 120-033-025, and 120-033-026.

Oakdale Road Corridor Assessor's Parcel Numbers:

032-015-038, 032-015-045, 032-015-047, 032-032-018, 032-032-019, 032-032-023, 032-032-024, 032-032-026, 032-032-028, 032-032-029, 032-032-032, 032-032-033, 067-025-001, 067-025-002, 067-025-004, 067-025-005, 067-026-058, 067-026-060, 067-027-021, 067-029-057, 067-033-019, 067-033-022, 067-033-023, 067-035-054, 067-035-055, and 067-035-057.

The zoning for parcel 032-015-045 is split between Planned Development (P-D) 394 and General Commercial (C-2). Only the portion of the parcel that is presently zoned C-2 is hereby rezoned to Mixed-Use Pedestrian. The legal description for the portion of parcel to be rezoned is as follows:

All that portion of Parcel C shown on that certain map filed in the office of the Recorder of Stanislaus County on November 2, 1987, in Book 40 of Parcel Maps at Page 16, lying within a portion of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, being more particularly described as follows:

Commencing from the Point of Beginning of this description at the southwest corner of said Parcel C of that Parcel Map in Book 40 of Parcel Maps at Page 16, Stanislaus County Records, thence North 89° 56' 30" East a distance of 154.41 feet, thence North 00° 27' 05" West a distance of 182.00 feet, thence South 89° 56' 30" West a distance of 154.41 feet, thence South 00° 27' 05" East a distance of 182.00 feet to the Point of Beginning.

Containing 0.64 acres, more or less.
Westerly Portion of APN 032-015-045

B. MIXED-USE HIGHWAY (MU-H) ZONE

Sections 02-03-08, 04-03-09, 05-03-09, 08-03-09, 09-03-09, 11-03-08, 12-03-08, 13-03-08, 14-03-08, 16-03-09, 17-03-09, 18-03-09, 19-03-09, and 26-03-09 are hereby amended to rezone each of the parcels in the following list of Assessor's Parcel Numbers to the Mixed-Use Highway Zone. With the exception of any parcel that is partially zoned as a Planned Development, each parcel listed below shall be rezoned in its entirety to the Mixed-Use Highway Zone regardless of whether it held one or more zoning designations previously. For any parcel that held both a Planned Development and another zoning designation, the Planned Development Zone shall remain, and other zoning designations shall be rezoned to the Mixed-Use Pedestrian Zone.

PARCELS TO BE REZONED TO MIXED-USE HIGHWAY (MU-H)

McHenry Avenue Corridor Assessor's Parcel Numbers:

013-005-017, 013-005-034, 013-005-038, 013-005-039, 013-005-040, 013-006-028, 013-006-031, 013-010-072, 013-010-074, 013-010-075, 013-010-077, 013-010-078, 013-014-002, 013-014-003, 013-014-005, 013-014-080, 013-014-081, 013-014-082, 013-014-083, 013-026-002, 013-026-003, 052-012-005, 052-012-006, 052-012-007, 052-012-008, 052-012-009, 052-012-017, 052-027-010, 052-060-001, 052-060-010, 055-023-032, 055-023-033, 055-023-038, 055-023-042, 055-023-043, 055-023-045, 055-023-046, 055-023-047, 055-023-048, 055-025-007, 055-025-008, 055-025-010, 055-025-011, 055-025-012, 055-025-013, 055-030-003, 055-030-004, 055-030-005, 055-031-003, 055-031-004, 055-031-091, 055-031-092, 055-031-093, 055-038-019, 055-046-002, 055-046-003, 055-046-004, 055-046-005, 055-048-001, 059-003-007, 059-003-009, 059-003-011, 059-003-012, 059-004-005, 059-004-006, 059-004-007, 059-004-010, 059-004-011, 059-004-013, 059-004-014, 059-004-015, 059-004-016, 059-004-017, 059-004-018, 059-004-019, 059-004-020, 059-014-002, 059-014-003, 059-014-004, 059-014-006, 059-014-007, 120-032-001, 120-046-051, 120-046-059, 120-046-060, 120-046-061, 120-046-064, 120-046-065, 120-049-023, 120-049-024, 120-052-009, 120-052-011, 120-052-024, 120-052-025, 120-052-026, 120-052-028, 120-052-032, 120-052-033, 120-052-034, 120-052-037, 120-052-038, 120-052-040, 120-052-041, 120-052-042, and 120-052-043.

Sisk Road Corridor Assessor's Parcel Numbers:

005-037-020, 005-037-024, 005-037-026, 005-046-006, 005-053-009, 005-053-011, 005-053-016, 005-053-027, 005-053-028, 005-053-029, 005-053-035, 005-053-036, 029-002-031, 029-002-032, 029-002-033, 029-002-034, 029-002-035, 029-002-037, 029-002-038, 029-002-039, 029-002-042, 029-002-043, 029-002-045, 029-002-046, 029-005-025, 029-005-037, 029-005-038, 029-005-044, 029-036-003, 029-036-012, 029-036-013, 029-036-017, 060-036-004, 060-036-005, 060-036-006, 060-036-012, 060-036-019, 060-036-021, 060-036-025, 060-036-026, 076-028-036, 076-028-037, 076-031-014, and 076-031-016.

Yosemite Boulevard Corridor Assessor's Parcel Numbers:

033-078-001, 033-078-003, 033-078-008, 033-078-009, and 033-078-010.

SECTION 3. ZONING MAP. Section 02-03-08, 04-03-09, 05-03-09, 08-03-09, 09-03-09, 11-03-08, 12-03-08, 13-03-08, 14-03-08, 14-03-09, 16-03-09, 17-03-09, 18-03-09, 19-03-09, 20-03-09, 21-03-09, 22-03-09, 23-03-09, 26-03-09, 28-03-09, and 29-03-09 of the Zoning Map of the City of Modesto are amended to appear as set forth on the maps attached hereto, which are hereby made a part of this ordinance by reference.

SECTION 4. USES AND STANDARDS. The allowable uses and development standards for those sites listed above as rezoned to the Mixed-Use Pedestrian Zone shall be as in the Mixed-Use Pedestrian Zone. The allowable uses and development standards for those sites listed above as rezoned to the Mixed-Use Highway Zone shall be as in the Mixed-Use Highway Zone.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2023, by Councilmember Bavaro, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwahlen

APPROVED:


CHRIS RICCI, Vice Mayor

ATTEST:

By:


DIANE NAYERES-PEREZ, City Clerk

(SEAL)

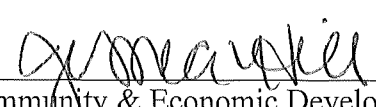
APPROVED AS TO FORM:

By:


JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By:


Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of November, 2023, Councilmember Bavaro moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwahlen

APPROVED: 
CHRIS RICCI, Vice Mayor

ATTEST: 
DIANE NAYARES-PEREZ, City Clerk

Effective Date: December 14, 2023

ORDINANCE NO. 3775-C.S.

ORDINANCE TO AMEND PLANNED DEVELOPMENT ZONES, P-D(102), P-D(109), P-D(120), P-D(123), P-D(125), P-D(134), P-D(137), P-D(147), P-D(166), P-D(179), P-D(200), P-D(217), P-D(223), P-D(287), P-D(306), P-D(320), P-D(394), P-D(403), P-D(405), P-D(421), P-D(422), P-D(433), P-D(436), P-D(459), P-D(477), P-D(481), P-D(491), P-D(494), P-D(499), P-D(515), P-D(525), P-D(531), P-D(553), P-D(560), P-D(566), P-D(584), P-D(591), AND P-D(593) TO ALLOW MULTIPLE-FAMILY RESIDENTIAL DEVELOPMENT IN ADDITION TO THEIR EXISTING USES

WHEREAS, the City of Modesto has proposed an Amendment to Planned Development Zones, P-D(102), P-D(109), P-D(120), P-D(123), P-D(125), P-D(134), P-D(137), P-D(147), P-D(166), P-D(179), P-D(200), P-D(217), P-D(223), P-D(287), P-D(306), P-D(320), P-D(394), P-D(403), P-D(405), P-D(421), P-D(422), P-D(433), P-D(436), P-D(459), P-D(477), P-D(481), P-D(491), P-D(494), P-D(499), P-D(515), P-D(525), P-D(531), P-D(553), P-D(560), P-D(566), P-D(584), P-D(591), AND P-D(593) to allow multiple-family residential development in addition to their existing uses; and

WHEREAS, since 1969, the State of California has required that all local governments adequately plan to meet the housing needs of everyone in the community through the Regional Housing Needs Allocation (RHNA) process. This process starts with the state determining how much housing at a variety of affordability levels is needed for each region in the state, and then regional governments developing a methodology to allocate that housing need to local governments. California's local governments then adopt housing plans called housing elements as part of their General Plan, which is also required by the State, to show how the jurisdiction will meet local housing needs; and

WHEREAS, the Modesto Housing Plan, adopted by the Modesto City Council in 2022, includes in its Key Housing Production Strategies the strategy to Transform Major Commercial Corridors Into Neighborhoods; and

WHEREAS, the City of Modesto has submitted a draft 6th Cycle Housing Element to the Department of Housing and Community Development indicating how it will meet local housing needs, and in said Housing Element the City has identified corridors along McHenry Avenue, Sisk Road, Oakdale Road, and Yosemite Boulevard as areas in which additional housing needs can be met; and

WHEREAS, in order to designate sites as “opportunity sites” that fulfill the RHNA requirements placed on the City, those sites must allow for multi-family residential uses as a by-right use; and

WHEREAS, numerous existing Planned Developments along the McHenry Avenue and Sisk Road corridors do not allow for by-right multi-family residential development as a part of their allowable uses; and

WHEREAS, fully rezoning Planned Developments to another zone would negate the value of the Planned Developments as they were initially conceived, and existing allowable uses for those Planned Developments could be removed through such a rezoning, unnecessarily creating nonconforming parcels where they otherwise would not be; and

WHEREAS, amending Planned Developments to allow for multi-family residential uses in addition to their existing uses serves to both continue to allow the previously identified uses in the Planned Developments and allow multi-family residential development as a by-right use, meeting the State’s requirements for RHNA

allocation and providing the opportunity for the development of multi-family residences in locations not presently permitted by-right in the City; and

WHEREAS, by Ordinance No. 1228-C.S., approved on September 18, 1972, the City Council established Planned Development 102 [P-D(102)]; and

WHEREAS, by Ordinance No. 3206-C.S., approved on February 27, 2001, the City Council established P-D(109); and

WHEREAS, by Ordinance No. 1302-C.S., approved on November 26, 1973, the City Council established P-D(120); and

WHEREAS, by Ordinance No. 1432-C.S., approved on February 24, 1975, the City Council established P-D(123); and

WHEREAS, by Ordinance No. 3172-C.S., approved on February 22, 2000, the City Council established P-D(125); and

WHEREAS, by Ordinance No. 2468-C.S., approved on January 6, 1987, the City Council established P-D(134); and

WHEREAS, by Ordinance No. 1488-C.S., approved on January 5, 1976, the City Council established P-D(137); and

WHEREAS, by Ordinance No. 3108-C.S., approved on October 27, 1998, the City Council established P-D(147); and

WHEREAS, by Ordinance No. 2072-C.S., approved on August 18, 1981, the City Council established P-D(166); and

WHEREAS, by Ordinance No. 1708-C.S., approved on January 23, 1978, the City Council established P-D(179); and

WHEREAS, by Ordinance No. 2833-C.S., approved on November 24, 1992, the City Council established P-D(200); and

WHEREAS, by Ordinance No. 1820-C.S., approved on April 10, 1979, the City Council established P-D(217); and

WHEREAS, by Ordinance No. 1836-C.S., approved on June 5, 1979, the City Council established P-D(223); and

WHEREAS, by Ordinance No. 2958-C.S., approved on October 17, 1995, the City Council established P-D(287); and

WHEREAS, by Ordinance No. 2055-C.S., approved on June 23, 1981, the City Council established P-D(306); and

WHEREAS, by Ordinance No. 2166-C.S., approved on January 4, 1983, the City Council established P-D(320); and

WHEREAS, by Ordinance No. 2665-C.S., approved on April 25, 1989, the City Council established P-D(394); and

WHEREAS, by Ordinance No. 2428-C.S., approved on May 27, 1986, the City Council established P-D(403); and

WHEREAS, by Ordinance No. 2431-C.S., approved on June 3, 1986, the City Council established P-D(405); and

WHEREAS, by Ordinance No. 2524-C.S., approved on July 7, 1987, the City Council established P-D(421); and

WHEREAS, by Ordinance No. 2512-C.S., approved on May 26, 1987, the City Council established P-D(422); and

WHEREAS, by Ordinance No. 2550-C.S., approved on September 22, 1987, the City Council established P-D(433); and

WHEREAS, by Ordinance No. 2558-C.S., approved on October 27, 1987, the City Council established P-D(436); and

WHEREAS, by Ordinance No. 2624-C.S., approved on November 22, 1988, the City Council established P-D(459); and

WHEREAS, by Ordinance No. 2729-C.S., approved on September 19, 1990, the City Council established P-D(477); and

WHEREAS, by Ordinance No. 2750-C.S., approved on January 22, 1991, the City Council established P-D(481); and

WHEREAS, by Ordinance No. 2832-C.S., approved on October 20, 1992, the City Council established P-D(491); and

WHEREAS, by Ordinance No. 2856-C.S., approved on June 15, 1993, the City Council established P-D(494); and

WHEREAS, by Ordinance No. 2874-C.S., approved on November 9, 1993, the City Council established P-D(499); and

WHEREAS, by Ordinance No. 2999-C.S., approved on August 27, 1996, the City Council established P-D(515); and

WHEREAS, by Ordinance No. 3073-C.S., approved on November 4, 1997, the City Council established P-D(525); and

WHEREAS, by Ordinance No. 3094-C.S., approved on June 23, 1998, the City Council established P-D(531); and

WHEREAS, by Ordinance No. 3252-C.S., approved on March 19, 2002, the City Council established P-D(553); and

WHEREAS, by Ordinance No. 3298-C.S., approved on May 13, 2003, the City Council established P-D(560); and

WHEREAS, by Ordinance No. 3352-C.S., approved on June 22, 2004, the City Council established P-D(566); and

WHEREAS, by Ordinance No. 3482-C.S., approved on April 1, 2008, the City Council established P-D(584); and

WHEREAS, by Ordinance No. 3528-C.S., approved on May 25, 2010, the City Council established P-D(591); and

WHEREAS, by Ordinance No. 3553-C.S., approved on September 13, 2011, the City Council established P-D(593); and

WHEREAS, the City proposes to amend each of the above Planned Developments, to allow multi-family development, and

WHEREAS, after a public hearing held on October 16, 2023, the Planning Commission found that the proposed Ordinance will not be detrimental to the public health, safety, or welfare because providing additional sites where multi-family housing is permitted by right will benefit the community, will result in an orderly planned use of land because the rezoned sites follow the goals of the Housing Plan to incorporate additional density through mixed use development in existing commercial corridors; and, is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plans because the proposed ordinance will provide for additional sites, with appropriate zoning, for the development of multiple family residential uses

consistent with the State’s required Regional Housing Needs Allocation that the City must meet with its Housing Element, a portion of the General Plan; and

WHEREAS, by Resolution No. 2023-26, adopted on October 16, 2023, the Planning Commission recommended to the Council that the proposed Ordinance amending Planned Development Zones, P-D(102), P-D(109), P-D(120), P-D(123), P-D(125), P-D(134), P-D(137), P-D(147), P-D(166), P-D(179), P-D(200), P-D(217), P-D(223), P-D(287), P-D(306), P-D(320), P-D(394), P-D(403), P-D(405), P-D(421), P-D(422), P-D(433), P-D(436), P-D(459), P-D(477), P-D(481), P-D(491), P-D(494), P-D(499), P-D(515), P-D(525), P-D(531), P-D(553), P-D(560), P-D(566), P-D(584), P-D(591), AND P-D(593) to allow multiple-family residential development in addition to their existing uses be approved; and

WHEREAS, a public hearing was held by City Council on November 7, 2023, at which hearing evidence both oral and documentary was received and considered; and

NOW, THEREFORE, the City Council of the City of Modesto does hereby ordain as follows:

SECTION 1. After a public hearing held on November 7, 2023, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because providing additional sites where multi-family housing is permitted by right will benefit the community.

2. The requested change will result in an orderly planned use of land because the rezoning of these sites follows the goals of the Housing Plan to incorporate additional density through mixed use development in existing commercial corridors.

3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plans because the proposed code amendments will provide for additional sites, with appropriate zoning, for the development of multiple family residential uses consistent with the State's required Regional Housing Needs Allocation that the City must meet with its Housing Element, a portion of the General Plan.

SECTION 2. AMENDMENT OF ORDINANCES 1228-C.S., 1302-C.S., 1432-C.S., 1488-C.S., 1708-C.S., 1820-C.S., 1836-C.S., 2055-C.S., 2072-C.S., 2166-C.S., 2428-C.S., 2431-C.S., 2468-C.S., 2512-C.S., 2524-C.S., 2550-C.S., 2558-C.S., 2624-C.S., 2665-C.S., 2729-C.S., 2750-C.S., 2832-C.S., 2833-C.S., 2856-C.S., 2874-C.S., 2958-C.S., 2999-C.S., 3073-C.S., 3094-C.S., 3108-C.S., 3172-C.S., 3206-C.S., 3252-C.S., 3298-C.S., 3352-C.S., 3482-C.S., 3528-C.S., and 3553-C.S.

Each of the above listed Ordinances is hereby amended to read as follows:

USES. The following uses shall be permitted in this P-D Zone in addition to existing uses:

1. Multiple-Family Residential

STANDARDS. Development Standards for Multiple-Family Residential development shall be as in the Medium-High Density Residential (R-3) Zone, except that the allowable density shall be from 22 to 45 dwelling units per acre. Additionally, where a multi-story residential building is proposed on a lot abutting a Low-Density Residentially zoned lot, any walls of the multi-story residential building that could provide unobstructed views (from windows or balconies) of a rear yard or actively used side yard on a Low-Density residentially zoned lot, the following shall apply:

- A. The Multi-story residential building shall have either no windows or windows with a bottom sill located at least five (5) feet eight (8) inches from the finished floor of a second (or higher) story; and
- B. No balconies shall face the low-density residentially zoned parcel.

The requirement in part A above does not apply to windows required by the Building Code to be usable for accessible emergency access. Windows required for emergency access shall be frosted or otherwise altered to provide additional privacy, as approved by the Director, if those windows are located on walls that could provide unobstructed views of a rear yard or actively used side yard on a Low-Density Residentially zoned lot.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.


The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2023, by Councilmember Escutia-Braaton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwahlen

APPROVED:


CHRIS RICCI, Vice Mayor

ATTEST:

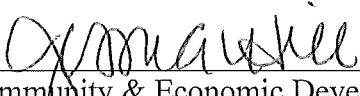
By: 
DIANE NAYERES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: 
Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 14th day of November, 2023, Councilmember Bavaro moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci

NOES: Councilmembers: None

RECUSED: Councilmembers: Williams, Wright, Mayor Zwanen

APPROVED:


CHRIS RICCI, Vice Mayor

ATTEST:


DIANE NAYARES-PEREZ, City Clerk

Effective Date: December 14, 2023

ORDINANCE NO. 3776-C.S.

ORDINANCE AMENDING SECTION 11-6.05 “CHARGES FOR METERED WATER SERVICE,” OF CHAPTER 6, “COLLECTION OF PUBLIC UTILITIES CHARGES,” OF TITLE 11, “PUBLIC UTILITIES,” OF THE MODESTO MUNICIPAL CODE TO ESTABLISH A WATER RATE SURCHARGE FOR NEW WATER CONNECTIONS LOCATED OUTSIDE OF THE CITY’S WATER SERVICE AREA

WHEREAS, the City of Modesto provides retail water services to parcels located within the City’s boundaries and certain other areas; and

WHEREAS, owners of property located outside of the City’s water service area occasionally request connection to the City’s water system; and

WHEREAS, City Council Policy No. 5001 addresses the extension of water service into unincorporated areas; and

WHEREAS, the cost for the City of providing water service in incorporated areas is higher than other areas due to a variety of reasons, including the need to transport the water a further distance, as well as the need to acquire and treat a greater volume of water to accommodate the increased demand; and

WHEREAS, the City Council desires to establish a higher rate for water service for new water connections located outside of the City’s boundaries; and

WHEREAS, the City desires to impose a 25% rate surcharge for areas within the City’s Sphere of Influence, and a 50% rate surcharge for all other properties; and

WHEREAS, property owners in unincorporated areas have no obligation to connect to the City’s water system, and will voluntarily choose to connect subject to the surcharge water rate; and

WHEREAS, the surcharge rates shall not apply in areas where the City took over the role of water purveyor from a prior purveyor, and has an obligation to provide water

service; and

WHEREAS, the City Council desires to adopt the proposed ordinance.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1 AMENDMENT OF CODE. Section 11-6.05, “Charges for Metered Water Service,” of Chapter 6, “Collection of Public Utilities Charges,” of Title 11, “Public Utilities,” of the Modesto Municipal Code is hereby amended to read in its entirety as follows:

“11-6.05 - Charges for Metered Water Service.

Charges for water delivered through a meter shall be paid to the City in accordance with rates and charges as established by the Council from time to time by resolution and on file in the office of the City Clerk and the Public Works Director. Charges for water delivered to a parcel located outside of the boundaries of the City, but otherwise within the City’s Sphere of Influence, shall be 125% of the otherwise applicable rate. Charges for water delivered to a parcel located outside of the boundaries of the City, and not located within the City’s Sphere of Influence shall be 150% of the otherwise applicable rate. The increased water rates for parcels located outside the City shall apply to parcels that connect to the City’s water system after January 1, 2024. The increased water rates for parcels located outside the City shall not apply to parcels located within County islands or for which the City has an obligation to provide water service because the City took over the role of water purveyor from the prior purveyor. Charges for metered service will be

due and payable upon presentation of the bill, and no advance or partial payments of such charges will be accepted by the City without consent of the Finance Director.

SECTION 2. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The proposed Ordinance is exempt from CEQA under the general rule in CEQA Guidelines section 15061(b)(3), that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

SECTION 4. EFFECTIVE DATE

This Ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 5. PUBLICATION

At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this Ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2023, by Councilmember Williams, who moved its introduction and passage to print which motion being duly seconded by Councilmember Ricci, was upon roll call carried and ordered printed and published by the following vote:


AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None


APPROVED: 
SUE ZWAHLEN, Mayor

ATTEST:

BY: 
DIANE NAYARES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 
JOSE M. SANCHEZ, City Attorney

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 12th day of December 2023, Councilmember Wright moved its final adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Alvarez, Escutia-Braaton, Ricci, Williams,
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Bavaro

APPROVED: 
SUE ZWAHLEN, MAYOR

ATTEST: 
DIANE NAYARES-PÉREZ, City Clerk

Effective Date: January 11, 2024